

DECISIONS

OF THE

RAILROAD COMMISSION

OF THE

STATE OF CALIFORNIA

VOLUME XII

DECEMBER 1, 1916 TO MARCH 31, 1917



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DOCUMENTS
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EXAMINERS

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 3899.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES AND THE BOARD OF PUBLIC SERVICE COMMISSIONERS OF THE CITY OF LOS ANGELES THAT THE RAILROAD COMMISSION FIX AND DETERMINE THE COMPENSATION TO BE PAID THE SOUTHERN CALIFORNIA EDISON COMPANY FOR ITS ELECTRIC DISTRIBUTING SYSTEM.

Application No. 1424.

Decided December 1, 1916.

Section 47 of the Public Utilities Act provides that when, upon application, the commission makes its findings as to the just compensation to be paid for public utility property in connection with condemnation proceedings and the applicant fails, within a period of sixty days, to initiate necessary proceedings to acquire such property, the findings shall be vacated and set aside. Southern California Edison Company alleges that the city of Los Angeles has failed to proceed within the time limit specified and accordingly the findings made on September 6, 1916, are held to be no longer of any force or effect.

H. H. Trowbridge, for Southern California Edison Company.
Albert Lec Stephens, city attorney, for city of Los Angeles.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SUPPLEMENTAL OPINION.

On the petition of the city of Los Angeles and the Board of Public Service Commissioners of the city of Los Angeles, under section 47 of the Public Utilities Act, the Railroad Commission made and filed herein on September 6, 1916, its findings of the just compensation to be paid by petitioners for certain property of Southern California Edison Company.

The Public Utilities Act in section 47 provides that after the Railroad Commission shall have made its findings in a proceeding of this character, the petitioners shall have sixty days within which to initiate such proceedings as are necessary legally to acquire the property valued. The section further provides that if the petitioners do not so proceed

“then upon written petition from the owner of such existing public utility setting forth said fact, the commission shall cause a notice of not less than ten days to be given to said county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or other public

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corporation to appear before said commission and show cause why an order should not be made by said commission, finding that the said county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or other public corporation has failed to diligently pursue its rights hereby conferred, and determining that the findings of the said commission theretofore made as to the just compensation that should be paid for the existing public utility and the lands, property and rights thereof, or any such part or portion thereof, shall no longer be of any force or effect. And said notice shall include a copy of said written petition so filed by said owner of such existing public utility. If the commission shall determine that said county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or other public corporation or the legislative or other governing body thereof has so failed to either file such suit or to proceed diligently to enforce the rights herein conferred and in the manner herein set forth, the commission shall make and enter such an order as so petitioned for by the owner of such existing public utility."

On November 8, 1916, Southern California Edison Company filed a petition in accordance with the above quoted portion of section 47, setting forth that the city of Los Angeles and the Board of Public Service Commissioners of the city of Los Angeles had failed diligently to pursue their rights since the findings of the commission had been made on September 6, 1916, and asking for an order of the commission declaring that said findings are no longer of any force or effect. An order to show cause returnable on November 28, 1916, together with the proper notice required by the statute, was issued by the Railroad Commission. At the hearing on the order to show cause the city of Los Angeles and the Board of Public Service Commissioners of the city of Los Angeles appeared and stated that they had knowingly declined to act within the time prescribed under the statute and that they had no objection to the issuance of the order prayed for.

I accordingly recommend the following supplemental order:

SUPPLEMENTAL ORDER.

In accordance with the facts stated in the preceding opinion, the Railroad Commission of California hereby finds that petitioners herein have failed, since the findings of the Railroad Commission entered herein on September 6, 1916, diligently to enforce the rights conferred in section 47 of the Public Utilities Act.

And basing its order upon this finding of fact,

It is hereby ordered that the findings of the Railroad Commission entered herein on September 6, 1916, of the just compensation that should be paid by petitioners for certain described property of Southern

California Edison Company, be and the same shall no longer be of any force or effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 1st day of December, 1916.

DECISION No. 3900.

IN THE MATTER OF THE APPLICATION OF BOYES SPRINGS PARK COMPANY FOR AN ORDER AUTHORIZING A UNIFORM CHARGE FOR WATER SERVICE.

Application No. 2441.

Decided December 2, 1916.

Order establishing a revised schedule of rates for applicant: Reproduction cost, \$962.00; present value, \$764.00; depreciation commuted on 5 per cent sinking fund basis, \$17.00. Rates established to become effective January 1, 1917, \$6.00 per year, payable in advance, in addition to schedule established which shall be paid only when water is used.

William B. Pringle, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Boyes Springs Park Company for an order authorizing reasonable and uniform rates for water sold by petitioner in a certain subdivision known as Boyes Springs Park, near Boyes Springs, Sonoma County.

A public hearing in this proceeding was held at Boyes Springs on September 8, 1916. The hearing in this case was consolidated with that of four other water utilities serving adjoining territory, which had filed similar applications. Evidence was presented in behalf of petitioner herein and consumers of Boyes Springs Park.

The rates at present charged by Boyes Springs Park Company to consumers are from \$1.00 to \$1.50 per month, roughly, varying by measure of the facilities for use. No charge is made when premises are occupied. As no meters are in use, a meter rate has not existed.

Applicant has been delivering water to thirty-eight consumers during the present year.

The only appraisal of the property in testimony was presented at the hearing by Milo H. Brinkley, one of the commission's engineers. This estimate totaled:

Reproduction cost	\$962 00
Reproduction cost less depreciation	764 00
Annual depreciation, 5 per cent sinking fund	17 00

Figures on the cost of operation are not available and no testimony was presented at the hearing in regard to this subject. It is believed that \$300.00 per year is a fair allowance for operating expenses and taxes.

The following tabulation shows the annual gross income, which applicant should receive from consumers under the allowances herein found to be reasonable:

Interest -----	\$77 00
Operating expenses and taxes -----	300 00
Depreciation -----	17 00
Total -----	<u>\$394 00</u>

In establishing a form of rate to yield the necessary gross revenue, the same considerations have been applied as in the rate adjustment for the utility owned by W. H. Turner, considered in Application No. 2438 before the commission, due to the similarity in water use, it being one of the utilities concerned in the consolidated hearing. Although Boyes Springs Park Company has not heretofore collected a meter rate, one has been herein established on account of its probable use by consumers.

Applicant should be required to file with this commission rules and regulations governing service.

We find as a fact that the rates of Boyes Springs Park Company, in so far as they differ from the rates herein found reasonable, are unjust and unremunerative and the rates as set out in the order accompanying this opinion are hereby found to be just and reasonable.

ORDER.

Boyes Springs Park Company, a corporation, having applied to the Railroad Commission for an order authorizing a reasonable and uniform rate to be charged its consumers for water, and a public hearing having been held, and the commission being fully advised in the premises,

It is hereby found as a fact by the Railroad Commission of the state of California that the rates now charged by the applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective January 1, 1917:

- (A) Six dollars annually to be paid in advance.
- (B) In addition to the annual charge the payment for each month during which any water is used as follows:

(I) *Flat rates:*

1. Stores and offices	\$0 50
2. Houses of four rooms or less	50
(a) Additional for each room	10
3. Hotels:	
(a) Dining-rooms	2 00
(b) Bedrooms per room	10
4. Restaurants	1 00
5. Barber shops, per chair	50
6. Horses or cows, each	10
7. Auxiliary uses:	
(a) Private toilets	10
(b) Private bathtubs	10
(c) Public toilets	50
(d) Public bathtubs	50
(e) Soda fountains and ice cream parlors	50
(f) Irrigation of lawns and gardens, per 100 square feet during irrigation	02

(II) *Meter rates:*

- 50 cents for 250 cubic feet or less.
 20 cents for each 100 cubic feet or fraction thereof for next 1,750 cubic feet.
 15 cents for each 100 cubic feet or fraction thereof in excess of 2,000 cubic feet.

It is hereby further ordered that within the period of fifteen days from the date of this order, applicant file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3901.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR ADJUSTMENT OF DISPUTES WHICH HAVE ARISEN BETWEEN IT AND FRANK L. DELONG, E. CLEMENS HORST COMPANY, KELLY & HENRY COMPANY, W. D. SHELDON & COMPANY, GIRVIN & EYRE, STRAUSS & COMPANY, VOLMER & PERRY, M. BLUM & COMPANY, MOORE, FERGUSON & COMPANY, AND SOMERS & COMPANY CONCERNING INTERPRETATION OF CAR DEMURRAGE TARIFF NO. 2-D, C. R. C. NO. 6.

Application No. 2574.

Decided December 2, 1916.

Petition for interpretation of rules governing demurrage: *Held*, 1. When loaded cars arrive at point of destination and carrier notifies the consignee of such arrival and consignee fails, within the specified time, to direct at what particular warehouse door it desires such cars spotted, demurrage accrues; 2. Carriers are not required to provide storage in cars and when storage is required through failure of the consignee to take care of shipments within the proper time the carrier is entitled to compensation above the cost of service. Assessed demurrage in the sum of \$1,407.00 against nine certain grain shippers is held to be a just and reasonable charge and its collection directed.

Elmer Westlake, for Applicant.

Seth Mann, for San Francisco Chamber of Commerce and various protestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a proceeding instituted by the Southern Pacific Company with reference to unpaid demurrage charges assessed against consignments of grain destined to warehouses at Port Costa.

Briefly, the petition alleges that during the period from June to December, 1914, certain carloads of grain were transported from points in California to Port Costa for various consignees; that the unloading from cars into warehouse was performed by the Southern Pacific Company; that prompt notice of arrival of consignments was given consignee; that unloading could not be performed until instructions had been received from the consignees, or their representatives specifying the door of a designated warehouse or particular location where car could be unloaded; that the unpaid demurrage, amounting to \$1,410.00, covers only the excess of free time between notice of arrival and the receipt of instructions to place the cars.

The following statement sets forth in detail the demurrage originally assessed, amount cancelled and the amount claimed to be due:

Consignee	Demurrage originally assessed	Demurrage canceled	Demurrage now assessed
Frank L. DeLong, also known as F. L. DeLong	\$78 00	\$27 00	\$51 00
E Clemens Horst Company	177 00	36 00	141 00
Kelly & Henry Company	105 00	24 00	81 00
W D. Sheldon & Company	198 00	87 00	111 00
Girvin & Eyre	198 00	81 00	117 00
Strauss & Company	306 00	102 00	204 00
Volmer & Perry	102 00	48 00	54 00
M. Blum & Company	75 00	36 00	39 00
Moore, Ferguson & Company	9 00	6 00	3 00
Somers & Company	969 00	360 00	609 00
Total	\$2,217 00	\$807 00	\$1,410 00

Since the filing of this action Moore, Ferguson & Company have paid their demurrage charges, amounting to \$3.00.

It is alleged that the unpaid amounts in dispute have been assessed in conformity with Car Demurrage Tariff No. 2-D, C. R. C. No. 6, and the consignees have been given the benefit of every doubt in the final computation. The Car Demurrage Tariff is constructed in conformity with this Commission's General Order No. 2, effective May 1, 1911.

Rules 3 and 15 of the Tariff read as follows:

RULE 3.

- “(A) Forty-eight hours free time computed from the first 7 a.m. after cars are placed and notification of arrival is given to consignee will be allowed for unloading all commodities except oil from tank cars, for which twenty-four hours will be allowed.
- “(B) Whenever it shall appear to the satisfaction of the commission that the failure of a railroad to furnish a car or cars for loading within the time fixed by these rules, or the failure of the shipper or consignee to load or unload the same was due to causes beyond the control of such carrier, shipper or consignee, no payment shall be required to be made on account of such delay.”

RULE 15.

“ Whenever any disputes arise between shippers, consignees and carriers concerning the interpretation of these rules and concerning any claim arising hereunder, the same shall be submitted to the commission for adjustment.”

The petition states, and it is confirmed by the testimony of applicant's witnesses, that at the present time, and for a period of more than twenty years the practice at Port Costa has been to give consignees notice of the arrival of carload shipments of grain by entry in books provided specifically for that purpose. The books are kept in receptacles similar to post office boxes, one book and one box for each warehouse, the key of which is held by the representative of the particular warehouse, who checks the book daily, or oftener, as the circumstances may require, and receipts for the information at the time of checking the book. This method of notification, applicant contends, is a complete compliance with paragraph “A” of Rule 3.

Terminal Tariff 230-G, C. R. C. 1260, carries provisions in Items 42 and 43 for the service of loading and unloading grain at Port Costa warehouses, and since this service was performed in each case by applicant, it assumed the responsibility for any delay in unloading after receipt of definite information to spot cars at the warehouses.

The cancellation of charges amounting to \$807.00 was made for the following reasons:

Demurrage was originally assessed after forty-eight hours, computed from the first 7 a.m. following the date of entry in warehouseman's notification register, even though the entry may have been made prior to 7 a.m. Since, under ordinary circumstances, the notification may not have been actually received until after 7 a.m., consignees have been given the benefit of any doubt and corrected charges are computed from 7 a.m. following notification received during regular business hours. Allowances are also made in the corrected charges, by the

Southern Pacific Company, for any failure of its stevedoring crews to unload cars promptly upon the receipt of instructions.

The petition, in conclusion, recites:

"That said consignees refused, and now refuse, to accept or to pay said demurrage charges as now assessed, or any part thereof, and claimed, and now claim, that because of conditions claimed to have been caused by the impending European war, and conditions claimed to exist by reason of the war itself, they were unable to secure bottoms into which grain could be loaded to make room for incoming grain, or grain on hand, or that, when vessels could be secured, the risk of shipment was too great to warrant shipment, and that these alleged conditions bring the consignees within the exceptions provided for by subdivision (B) of Rule 3 of said tariff. With this position petitioner did not and does not now agree, and claims the right to assess demurrage charges as now assessed."

These consignees, having refused to pay any demurrage charges, petitioner, on June 2, 1916, in order to prevent the running of the statute of limitations, filed suits in court to protect its interests and to avoid the penalties of the law for failure to collect tariff charges.

Petitioner asks that the commission examine into the merits of the claims and issue an appropriate order.

Between the dates in question 2,991 cars of grain arrived at Port Costa in care of the Grangers Warehouse, out of which 608 were held overtime and demurrage of \$3,462.00 assessed; of this amount, \$2,217.00 was charged against 259 cars involved in these proceedings, thus indicating that \$1,245.00 was assessed against other consignees, a part was paid and the balance canceled for the same reason as was the \$807.00 in favor of these protestants.

It does not appear from the evidence that there was any bunching in transit, as that term is commonly understood. It seems that petitioner was ready at all times to make deliveries, but due to the number of cars arriving and the limited capacity of the Grangers Warehouse, a congestion was created in excess of the warehouseman's ability to handle. All the unpaid demurrage accrued while the cars were being held awaiting placement orders.

It was shown by exhibits and by the testimony of witnesses that cars were usually "spotted" by petitioner on the day instructions were received. A specific transaction was testified to in the case of cars LV 10666 and SP 82370. These cars arrived at Port Costa July 28th, but no instructions for placement were received until August 10th, when both cars were switched within an hour. Demurrage in the sum of \$30.00 was assessed against each car. That the arrival of cars in large numbers at the Grangers Warehouse was unusual is shown by petitioner's Exhibit No. 1, only 513 cars being received during the

period June to December, 1913, as compared with 2,991 cars for the corresponding period of 1914.

Protestants deny that the Southern Pacific Company has any authority to charge demurrage in excess of free time elapsing between entry in book of notice of arrival and the giving of instructions to place the cars, or for any period of time. They further assert that all cars were billed to a designated warehouse and could not be unloaded until set at the warehouse, nor could demurrage commence to run until cars were placed; further, that there was a blockade at Port Costa of grain cars, that this blockade was brought about and added to by carrier bringing loaded cars into Port Costa, knowing same would be bunched at or near destination, and that the cause of any delay in unloading was due entirely to the omissions and negligence of carrier in failing to unload promptly.

The position taken by protestants is not substantiated by the evidence. In most cases the cars were billed to protestants in care of the Grangers Warehouse and, therefore, could not be spotted until definite instructions had been received. The unloading was accomplished by the petitioner at a charge per ton provided in its tariff and the testimony and the exhibits show that, with but few exceptions, cars were promptly spotted upon receipt of instructions from warehouseman and unloaded without delay. When delays did occur after receipt of placement instructions, petitioner assumed the responsibility and canceled the charge.

I am not in accord with the view of one of protestants' witnesses, who took the position that because no direct notice had been sent to his firm at San Francisco, demurrage tariff had not been complied with. Upon cross-examination, it was admitted that during twenty years prior to the assessing of these particular demurrage charges the only notice ever given his firm and others of the arrival of cars at Port Costa was the entry in warehouseman's notification book. The evidence further indicates that, in the absence of advance information, warehouseman notifies consignees promptly, either by telephone or mail, of the arrival of cars and asks for instructions.

During the three months, June, July and August, of 1913 and 1914, grain receipts at Grangers Warehouse were as follows:

Year	Ex water craft	Ex car	Total
1913 -----	18,330,946 pounds	2,964,283 pounds	21,295,229 pounds
1914 -----	27,986,309 pounds	85,937,237 pounds	113,923,546 pounds

The tonnage for 1914 is more than 500 per cent of the tonnage for 1913. It is of record that on a number of occasions when the Grangers

Warehouse was completely filled, notice was given by the management to interested firms to discontinue consignments. Apparently grain dealers did not see fit to consider these instructions, and permitted cars to come forward. In many instances, after cars had been held under demurrage awaiting space in Grangers Warehouse, they were forwarded to other warehouses at Crockett, where no congestion existed.

No doubt the heavy grain crop of 1914 and the European war had much to do with protestants' failure to unload cars promptly. But the mere fact that vessels could not be secured to quickly move the grain through the warehouse at Port Costa is no justification for refusing to pay these demurrage charges.

The Interstate Commerce Commission, in I. & S. Docket 83-83A, 25 I. C. C. 314-324, says:

"The carriers are under no obligation to furnish storage in cars, but if they voluntarily undertake to provide such storage, they are entitled to reasonable compensation therefor, which, as the Supreme Court has said, may include a profit beyond the cost of the service. There can be no justice in permitting one consignee to hold cars for storage or for his convenience or economy when the business of shippers is suffering because they can not get those cars for loading, and the carriers are deprived of the earnings upon such loading. If additional charges for the purpose of releasing tracks are proper and reasonable, why are they not equally proper and reasonable when for the purpose of releasing cars?"

Carriers are not required to provide storage in cars and when, by force of circumstances, equipment is used for such purpose the demurrage charges as prescribed in our General Order No. 2, effective May 1, 1911, should be enforced.

Shippers and carriers should use every effort to promptly release cars, in order that there may be free use of the equipment and this is especially urged during rush seasons and at a time of shortage, such as exists at present.

From the record, I am unable to find that the congestion at Port Costa was due to any cause other than protestants' unusually large tonnage and their inability to secure vessels for transshipment.

Furthermore, it does not appear that the detention of cars was unavoidable, for protestants could have stopped the shipping of grain after having been notified that there was no space at Grangers, or the consignments could have been diverted to other warehouses at Crockett, where storage was available.

Upon consideration of all the evidence, I am of the opinion and find that the charges in question are not shown to have been improperly assessed and they should be paid.

I recommend the following form of order:

ORDER.

The Southern Pacific Company having made application to the Railroad Commission for a ruling with reference to Rule 3 of Pacific Car Demurrage Tariff No. 2-D, C. R. C. No. 6, in connection with unpaid demurrage charges assessed at Port Costa during the months June to December, both inclusive, in the year 1914, and a public hearing having been held and being fully apprised in the premises and basing this order on the findings of fact set out in the opinion,

It is hereby ordered that the Southern Pacific Company enforce paragraph (A) of Rule 3 of Tariff No. 2-D, C. R. C. No. 6, and collect demurrage charges amounting to \$1,407.00, as set forth in the application, viz:

Consignee	Demurrage now assessed
Frank L. DeLong, also known as F. L. DeLong.....	\$51 00
F. Clemens Horst Company.....	141 00
Kelly & Henry Company.....	81 00
W D. Sheldon & Company.....	111 00
Girvin & Eyre.....	117 00
Strauss & Company.....	204 00
Volmer & Perry.....	54 00
M. Blum & Company.....	39 00
Somers & Company.....	609 00
Total	\$1,407 00

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3902.

IN THE MATTER OF THE APPLICATION OF FRANK P. CADY AND RILLA E. CADY, OWNERS OF SUSANVILLE WATER WORKS, FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE OR NOTES SECURED BY A MORTGAGE UPON SAID SUSANVILLE WATER WORKS FOR THE SUM OF TEN THOUSAND DOLLARS.

Application No. 1511.

Decided December 2, 1916.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that Frank P. Cady and Rilla E. Cady (copartners), owners of Susanville Water Works, be given and hereby are given

authority to execute to Bank of Lassen County a mortgage to secure the payment of a two-year 7 per cent note for the principal sum of \$9,000.00, said mortgage to be insubstantially the same form and tenor as the mortgage filed with this commission on November 23, 1916, and marked Exhibit "A," "Application Number 1511." The approval herein given of said mortgage is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

The Railroad Commission of the state of California hereby finds as a fact that applicants herein have complied with the conditions set forth in Decision No. 3834, dated November 2, 1916.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3903.

IN THE MATTER OF THE APPLICATION OF KATE F. WATERMAN FOR
AN ORDER AUTHORIZING A UNIFORM CHARGE FOR WATER
SERVICE.

Application No. 2442.

Decided December 2, 1916.

Applicant's system was constructed primarily for the purpose of developing real estate and it is, in its present condition, out of all proportion to the requirements of consumers now receiving service; accordingly a return upon its full face value will not be allowed. Schedule of rates established to become effective January 1, 1917: \$6.00 per year payable in advance, this charge in addition to detailed schedule which is payable only when consumer is actually receiving service.

William B. Pringle, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Kate F. Waterman for an order authorizing reasonable and uniform rates for water sold by petitioner in a certain tract or subdivision known as Sonoma Highlands, near Boyes Springs, Sonoma County.

A public hearing in this proceeding was held at Boyes Springs on September 8, 1916. The hearing in this case was consolidated with that of four other water utilities, serving adjoining territory, which had filed similar applications. Evidence was presented in favor of petitioner herein and consumers of Sonoma Highlands.

The rates at present charged by Kate F. Waterman to consumers are \$1.50 per month when premises are occupied. A charge of 50 cents per month is made when premises are unoccupied. As no meters are in use, a meter rate has not existed.

Applicant has been delivering water to eight consumers during the present year. The only appraisal of the property in testimony was presented at the hearing by Milo H. Brinkley, one of the commission's engineers. Both operating and nonoperating property were included in this estimate, as it was difficult to separate the two on account of the small number of consumers. The estimate totaled:

Reproduction cost	\$4,231 00
Reproduction cost less depreciation	4,094 00
Annual depreciation 5 per cent sinking fund	63 00

According to the testimony of the commission's engineer, the present eight consumers could be served by a much smaller plant. In fact, the plant has been built as an appurtenance to building lots, which are being sold to prospective consumers, and the development is much greater than is necessary for the convenience of the present consumers. The gross revenue amounted to only \$59.00 in 1915. Under the circumstances, we believe the rates to be established should be no greater than those which have been fixed for the other utilities concerned in the consolidated hearing, on account of the similarity in water use and the probable cost of service to each consumer.

Applicant should be required to file with this commission rules and regulations governing service.

We find as a fact that the rates of Kate F. Waterman, in so far as they differ from the rates herein found reasonable, are unjust and unremunerative, and the rates as set out in the order accompanying this opinion are hereby found to be just and reasonable.

ORDER.

Kate F. Waterman having applied to the Railroad Commission for an order authorizing a reasonable and uniform rate to be charged her consumers for water, and a public hearing having been held and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rates now charged by applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order upon the foregoing findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the state of California that applicant is authorized to file with this commission the

following schedule of rates, said rates to become effective January 1, 1917:

- (A) Six dollars annually to be paid in advance.
 (B) In addition to the annual charge the payment for each month during which any water is used as follows:

(I) *Flat rates:*

1. Stores and offices.....	\$0 50
2. Houses of four rooms or less.....	50
(a) Additional for each room.....	10
3. Hotels:	
(a) Dining-rooms	2 00
(b) Bedrooms, per room.....	10
4. Restaurants	1 00
5. Barber shops, per chair.....	50
6. Horses or cows, each.....	10
7. Auxiliary uses:	
(a) Private toilets	10
(b) Private bathtubs	10
(c) Public toilets	50
(d) Public bathtubs	50
(e) Soda fountains and ice cream parlors.....	50
(f) Irrigation of lawns and gardens per 100 square feet, during irrigation	02

(II) *Meter rates:*

- 50 cents for 250 cubic feet or less.
 20 cents for each 100 cubic feet or fraction thereof for next 1,750 cubic feet.
 15 cents for each 100 cubic feet or fraction thereof in excess of 2,000 cubic feet.

It is hereby further ordered that within the period of fifteen (15) days from the date of this order applicant shall file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3904.

IN THE MATTER OF THE APPLICATION OF J. W. MINGES FOR AN ORDER AUTHORIZING A UNIFORM CHARGE FOR WATER SERVICE.

Application No. 2440.

Decided December 2, 1916.

The sum of \$1,934.00 is found for reproduction cost of applicant's system and the sum of \$1,440.00 for present value, depreciation, figured on 5 per cent sinking fund method is fixed at \$33.00. It is found that applicant is entitled to an annual gross income of \$637.00 and the following schedule of rates are established to become effective January 1, 1917: \$6.00 annually, payable in advance, in addition to detailed schedule established which is payable only when consumer is actually receiving service.

William B. Pringle, for Applicant.

REPORT OF THE COMMISSION.

This is an application by J. W. Minges for an order authorizing reasonable and uniform rates for water sold by petitioner in certain subdivisions known as Woodleaf Park, Boyes Springs Park and Sonoma Highlands, near Boyes Springs, Sonoma County.

A public hearing in this proceeding was held at Boyes Springs on September 8, 1916. The hearing in this case was consolidated with that of four other water utilities serving adjoining territory, which had filed similar applications. Evidence was presented in behalf of petitioner herein and consumers.

The rates at present charged by J. W. Minges to consumers vary from \$1.00 to \$2.00 per month, roughly, by measure of the facilities for use. A charge of 25 cents to 50 cents per month is made when premises are unoccupied. As no meters are in use, a meter rate has not existed.

Applicant has been delivering water to 60 consumers during the present year.

The only appraisal of the property in testimony was presented at the hearing by Milo H. Brinkley, one of the commission's engineers. This estimate totaled:

Reproduction cost	\$1,934 00
Reproduction cost, less depreciation	1,440 00
Annual depreciation, 5 per cent sinking fund	33 00

Figures on the cost of operation are not available, as practically all of the labor is performed by the owner of the plant. The cost of power amounted to \$89.00 during 1915. It is believed that \$360.00 per year is a fair allowance for operating expenses and taxes, in addition to the cost of power.

The following tabulation shows the annual gross income which applicant should receive from consumers under the allowances herein found to be reasonable:

Interest	\$155 00
Operating expenses and taxes	449 00
Depreciation	33 00
Total	\$637 00

The income amounted to \$418.00 in 1915. A change in the present rates will be necessary in order to produce the required revenue. In establishing a form of rate to yield the necessary gross revenue, the same considerations have been applied as in the rate adjustment for the utility owned by W. H. Turner, considered in Application No. 2438

before the commission, due to similarity in water use, it being one of the utilities concerned in the consolidated hearing. Although J. W. Minges has not heretofore collected a meter rate, one has been herein established on account of the expressed desire of consumers for its existence.

Applicant should be required to file with this commission rules and regulations governing service.

We find as a fact that the rates of J. W. Minges, in so far as they differ from the rates herein found reasonable, are unjust and unremunerative, and the rates as set out in the order accompanying this opinion are hereby found to be just and reasonable.

ORDER.

J. W. Minges having applied to the Railroad Commission for an order authorizing a reasonable and uniform rate to be charged his consumers for water, and a public hearing having been held and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rates now charged by applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the state of California, that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective January 1, 1917:

- (A) Six dollars annually to be paid in advance.
- (B) In addition to the annual charge the payment for each month during which any water is used as follows:
 - (I) *Flat rates:*
 - 1. Stores and offices.....\$0 50
 - 2. Houses of four rooms or less..... 50
 - (a) Additional for each room..... 10
 - 3. Hotels:
 - (a) Dining-rooms 2 00
 - (b) Bedrooms, per room..... 10
 - 4. Restaurants 1 00
 - 5. Barber shops, per chair..... 50
 - 6. Horses or cows, each..... 10
 - 7. *Auxiliary uses:*
 - (a) Private toilets 10
 - (b) Private bathtubs 10
 - (c) Public toilets 50
 - (d) Public bathtubs 50
 - (e) Soda fountains and ice cream parlors..... 50
 - (f) Irrigation of lawns and gardens per 100 square feet during irrigation 02

(II) Meter rates:

50 cents for 250 cubic feet or less.

20 cents for each 100 cubic feet or fraction thereof for next 1,750 cubic feet.

15 cents for each 100 cubic feet or fraction thereof in excess of 2,000 cubic feet.

It is hereby further ordered that within the period of fifteen (15) days from the date of this order, applicant shall file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3905.

IN THE MATTER OF THE APPLICATION OF THE SONOMA VISTA WATER COMPANY FOR AN ORDER AUTHORIZING A UNIFORM CHARGE FOR WATER SERVICE.

Application No. 2439.

Decided December 2, 1916.

Reproduction cost of applicant's system is found to be \$5,124.00 and the present value \$4,798.00; depreciation, figured on the 5 per cent sinking fund method, is fixed at \$74.00. In view of the fact that applicant's system is constructed considerably larger than the requirements of present consumers demand, a return is not allowed on the full face value. Following schedule established to become effective January 1, 1917: \$6.00 per year, payable in advance, in addition to detailed schedule established to be paid only when consumer is actually receiving service.

William B. Pringle, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Sonoma Vista Water Company for an order authorizing reasonable and uniform rates for water sold by petitioner in a certain tract or subdivision known as Sonoma Vista, near Boyes Springs, Sonoma County.

A public hearing in this proceeding was held at Boyes Springs on September 8, 1916. The hearing in this case was consolidated with that of four other water utilities serving adjoining territory, which had filed similar applications. Evidence was presented in behalf of petitioner herein and consumers of Sonoma Vista.

The rates at present charged by Sonoma Vista Water Company to consumers are from \$1.00 to \$1.50 per month, roughly, varying by measure of the facilities for use. A charge of 50 cents per month is made when premises are unoccupied. Although meters are in some instances in use, a meter rate has not existed.

Applicant has been delivering water to 60 consumers during the present year. The only appraisal of the operating property in evidence was presented at the hearing by Milo H. Brinkley, one of the commission's engineers. This estimate totaled:

Reproduction cost	\$5,124 00
Reproduction cost less depreciation	4,798 00
Annual depreciation, 5 per cent sinking fund	74 00

According to the testimony of the commission's engineer, the plant is capable of serving a much larger number of consumers than now exist. Under the circumstances, we believe that the present consumers should not be required to pay interest and depreciation on the full cost of the system. On account of the similarity between this plant and that owned by W. H. Turner in the matter of number of consumers and service rendered, as well as the probable cost of a plant which would adequately serve the present number of consumers, we are convinced that the annual returns to applicant from the present consumers need not be greater than has been allowed to W. H. Turner, namely, \$687.00 per year.

The income amounted to \$265.00 in 1915. It is evident that a change in the present rates will be necessary in order to produce the required revenue.

In establishing a form of rate to yield the necessary gross revenue, the same considerations have been applied as in the rate adjustment for the utility owned by W. H. Turner, considered in Application No. 2438 before the commission, due to similarity in water use. Although the Sonoma Vista Water Company has not heretofore collected a meter rate, one has been herein established, as some meters have already been installed.

There has been complaint of service among the water users, which the applicant has declared its intention of improving. The rate herein established is fixed with the understanding that the company will be required to provide adequate service.

Applicant should be required to file with this commission rules and regulations governing service.

We find as a fact that the rates of Sonoma Vista Water Company, in so far as they differ from the rates herein found reasonable, are unjust and unremunerative, and the rates as set out in the order accompanying this opinion are hereby found to be just and reasonable.

ORDER.

Sonoma Vista Water Company, a copartnership, having applied to the Railroad Commission for an order authorizing a reasonable and uniform rate to be charged its consumers for water, and a public hear-

ing having been held and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rates now charged by applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the state of California, that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective January 1, 1917:

- (A) Six dollars annually to be paid in advance.
- (B) In addition to the annual charge the payment for each month during which any water is used as follows:
- (I) *Flat rates:*
 - 1. Stores and offices-----\$0 50
 - 2. Houses of four rooms or less----- 50
 - (a) Additional for each room----- 10
 - 3. Hotels:
 - (a) Dining-rooms ----- 2 00
 - (b) Bedrooms, per room----- 10
 - 4. Restaurants ----- 1 00
 - 5. Barber shops, per chair----- 50
 - 6. Horses or cows, each----- 10
 - 7. Auxiliary uses:
 - (a) Private toilets ----- 10
 - (b) Private bathtubs ----- 10
 - (c) Public toilets ----- 50
 - (d) Public bathtubs ----- 50
 - (e) Soda fountains and ice cream parlors----- 50
 - (f) Irrigation of lawns and gardens per 100 square feet during irrigation ----- 02
- (II) *Meter rates:*
 - 50 cents for 250 cubic feet or less.
 - 20 cents for each 100 cubic feet or fraction thereof for next 1,750 cubic feet.
 - 15 cents for each 100 cubic feet or fraction thereof in excess of 2,000 cubic feet.

It is hereby further ordered that within the period of fifteen (15) days from the date of this order applicant file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3906.

IN THE MATTER OF THE APPLICATION OF W. H. TURNER FOR AN
ORDER AUTHORIZING A UNIFORM CHARGE FOR WATER SERVICE.

Application No. 2438.

Decided December 2, 1916.

The reproduction cost of applicant's system is fixed at \$2,425.00 and present value at \$2,117.00. Depreciation computed on the 5 per cent sinking fund method, is fixed at \$48.00. It is found that applicant is entitled to an annual gross income of \$687.00. Considering that the majority of applicant's consumers are summer residents and require service only during a short period each year, but that applicant is obliged to maintain service during the whole year, the following schedule established to become effective January 1, 1917: \$6.00 per year, payable in advance, in addition to detailed schedule established which is payable only when consumer is actually receiving service.

William B. Pringle, for Applicant.

REPORT OF THE COMMISSION.

This is an application by W. H. Turner for an order authorizing reasonable and uniform rates for water sold by petitioner in a certain subdivision known as Caliente Park, adjacent to Feters Springs, Sonoma County.

A public hearing in this proceeding was held at Boyes Springs on September 8, 1916. The hearing in this case was consolidated with that of four other water utilities serving adjoining territory, which had filed similar applications and are operating under similar conditions. Evidence was presented in behalf of petitioner herein and consumers of Caliente Park.

The rates at present charged by W. H. Turner to consumers vary from approximately \$1.00 to \$2.00 per month by measure of the facilities for use. A charge of 25 cents per month is made when premises are unoccupied. The meter rate is \$1.00 for the first 300 cubic feet, all use above that amount being charged for at the rate of 25 cents per 100 cubic feet.

Applicant has been delivering water to 58 consumers during the present year.

The only appraisal of the property in evidence was presented at the hearing by Milo H. Brinkley, one of the commission's engineers. This estimate totaled:

Reproduction cost	\$2,425 00
Reproduction cost, less depreciation	2,117 00
Annual depreciation, 5 per cent sinking fund	48 00

Figures on the cost of operation are not available, as practically all of the labor is performed by the owner of the plant. The cost of power amounted to \$85.00 during 1915. The evidence shows that \$360.00

per year is a fair allowance for operating expenses and taxes, in addition to the cost of power.

The following tabulation shows the annual gross income which applicant should receive from consumers under the allowances herein found to be reasonable:

Interest	\$194 00
Operating expenses and taxes.....	445 00
Depreciation	48 00
Total	<u>\$687 00</u>

The income amounted to \$400.00 in 1915. It is evident a change in the present rates will be necessary in order to produce the required revenue.

In establishing a form of rate which will yield sufficient revenue to provide a fair return for the services rendered, it is necessary to direct attention to the character of the use made by the public of the utility's property. The territory served is within an area devoted primarily to summer resorts. The consumers in the most part are nonresidents who own or use small cottages as resorts for themselves and families in summer or for vacation purposes at intervals throughout the year. Few consumers remain the entire year, but the capital invested to supply their needs must remain in use at all times. Likewise is the depreciation to the system constant, as are the maintenance charges and the utility's obligation to serve at all times. Under such conditions the consumer seeks conveniences and should pay for those installed for his benefit rather than expect to pay merely for the actual commodity used, which in some cases might be but the use of a day or a week in a year's time.

At present the utility is collecting rates as hereinabove set forth, the plan being to charge a small monthly rate during nonuse and a larger rate during the time of actual use. This seems to us a fair method of handling the unusual situation and in the order accompanying this opinion we shall upon that basis establish rates which we believe will closely approximate the cost of service to the different classes of consumers.

There has been complaint of service among the water users which the applicant has declared its intention of improving. The rate herein established is fixed with the understanding that the utility will be required to provide adequate service. Applicant should be required to file with this commission rules and regulations governing service.

We find as a fact that the rates of W. H. Turner, in so far as they differ from the rates herein found reasonable, are unjust and unremunerative and the rates as set out in the order accompanying this opinion are hereby found to be just and reasonable.

ORDER.

W. H. Turner having applied to the Railroad Commission for an order authorizing a reasonable and uniform rate to be charged his consumers for water, and a public hearing having been held and the commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the state of California that the rates now charged by applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered that applicant is authorized to file with this commission the following schedule of rates, said rates to become effective January 1, 1917:

- (A) Six dollars annually to be paid in advance.
- (B) In addition to the annual charge the payment for each month during which any water is used as follows:
- (I) *Flat rates:*
 - 1. Stores and offices.....\$0 50
 - 2. Houses of four rooms or less..... 50
 - (a) Additional for each room..... 10
 - 3. Hotels:
 - (a) Dining-rooms 2 00
 - (b) Bedrooms, per room..... 10
 - 4. Restaurants 1 00
 - 5. Barber shops, per chair..... 50
 - 6. Horses or cows, each..... 10
 - 7. Auxiliary uses:
 - (a) Private toilets 10
 - (b) Private bathtubs 10
 - (c) Public toilets 50
 - (d) Public bathtubs 50
 - (e) Soda fountains and ice cream parlors..... 50
 - (f) Irrigation of lawns and gardens per 100 square feet during irrigation 02
- (II) *Meter rates:*
 - 50 cents for 250 cubic feet or less.
 - 20 cents for each 100 cubic feet or fraction thereof for next 1,750 cubic feet.
 - 15 cents for each 100 cubic feet or fraction thereof in excess of 2,000 cubic feet.

It is hereby further ordered that within the period of fifteen (15) days from the date of this order, applicant shall file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3907.

IN THE MATTER OF THE APPLICATION OF HILLSBOROUGH WATER COMPANY (FORMERLY CHERRY CASON WATER COMPANY) FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2618.

Decided December 2, 1916.

Applicant authorized to execute a mortgage securing a bond issue of \$50,000.00 and to issue thereunder bonds of the face value of \$30,000.00, bearing interest at 6 per cent, such bonds to be sold at not less than 95, proceeds to be used partly to reimburse treasury for money expended in drilling wells, the balance for real estate, extensions and additions to plant.

Arthur H. Reddington, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Hillsborough Water Company for authority to create a bonded indebtedness of \$50,000.00 of first mortgage 6 per cent twenty-year gold bonds, and to issue and sell thereunder \$30,000.00 of bonds, at 95 per cent of their face value, for the following purposes:

Additions and betterments-----	\$22,658 45
Purchase of real property-----	5,000 00
Reimbursement -----	2,341 55
Total -----	\$30,000 00

A public hearing was held in San Francisco, November 23, 1916.

In order properly to understand applicant's present position, it will be necessary to consider briefly the history of its properties.

Prior to 1884, the waters of San Mateo Creek were pumped for use on the San Mateo rancho, owned by Mrs. Agnes Bowie and her son, William H. Howard. In 1884 and 1886, through two agreements, Mrs. Bowie and William H. Howard exchanged certain rights of way, the waters of San Mateo Creek and its watershed for the right to obtain water direct from the Spring Valley company's mains at certain specified rates. The first of these contracts was dated May 1, 1884, under which, in consideration of \$3,000.00 and the Spring Valley Water Company's promise to deliver to Mrs. Agnes Bowie and William H. Howard 500,000 gallons of water per day at the rate of 15 cents per thousand gallons, the Spring Valley Water Company obtained a right of way ten feet wide and 17,179 feet long through the said San Mateo rancho. Under the second of these contracts, dated December 14, 1886, in consideration of the Spring Valley Water Company's agreement to furnish Mrs. Bowie and William H. Howard 150,000 gallons of water per day at the rate of 5 cents per thousand gallons, the Spring Valley Water Company acquired certain watersheds and water rights from

said Mrs. Bowie and her son. Under this last mentioned contract the use of the water is limited to certain land included in the original San Mateo rancho, while under the first contract there appears to be no territorial restriction upon the use of the water. Mrs. Bowie and her son, William H. Howard, each had a one-half interest in the above contract.

When Mrs. Bowie died in 1893, her one-half interest was divided among five of her heirs who are now the stockholders of Hillsborough Water Company. In 1906, these five heirs organized the Cherry Cañon Water Company and assigned to that corporation their rights under the two above mentioned contracts, upon the express agreement that they should at all times be furnished with as much water as they required, or should demand, up to 10,000 gallons each per day at the cost price of 5 cents per thousand gallons, and as much in addition as they should require or demand, up to 5,000 gallons more per day each, for 15 cents per thousand gallons. The Cherry Cañon Water Company, therefore, under one contract became entitled to 25,000 gallons of water per day at 5 cents per thousand gallons and to the use of so much of the remaining 50,000 gallons per day of 5 cent water as might not be demanded and used by the five former owners of the contract. Under the other contract, the company became entitled absolutely to 225,000 gallons per day at 15 cents per thousand gallons and to so much of the remaining 25,000 gallons as might not be demanded and used by the above-mentioned former owners of the contract.

On July 27, 1916, Cherry Cañon Water Company, by an order of court, had its name changed to Hillsborough Water Company. Applicant is, accordingly, entitled to receive 75,000 gallons of water per day from the Spring Valley Water Company at 5 cents per thousand gallons and 250,000 gallons per day at the rate of 15 cents per thousand gallons, but is burdened with the obligation of delivering at the same prices to its five controlling stockholders (the five heirs of Mrs. Bowie above referred to) the amounts of water above specified.

Applicant is engaged in supplying water for domestic use to that portion of the city of Hillsborough lying north of San Mateo Creek and south of the southerly line of San Mateo Park. The plant for this purpose consists of a battery of filters receiving water from the 44-inch main of Spring Valley Water Company, delivery being made into a 6-inch main on Santa Ynez avenue at Severn lane. From this main, which was laid in 1914, connection is made with the 4-inch main on Roblar avenue.

Applicant has recently acquired the title to certain real estate for the development of water, for tank sites, and certain rights of way for pipe lines (which are designated in Exhibit "B," annexed to the application in the above-entitled matter, as Parcels Nos. 1, 2, 3, 4, 5, 6,

7 and 8, and as easements Fourth, Fifth, Sixth, Seventh and Eighth) from Bowie Estate Company, Duncan Hayne and J. H. P. Howard, stockholders of applicant, at an agreed purchase price of \$5,000.00. Upon one of these parcels of land so purchased, applicant has sunk two wells at an actual expense of \$2,341.53, the funds for which were obtained from its income account, for which amount applicant asks permission to reimburse its treasury from the proposed bond issue. According to the testimony, these wells have at present a capacity of approximately 10,000 gallons per hour, and we find that applicant should be allowed to reimburse its treasury as requested.

Mr. W. C. Hammatt, applicant's engineer, has submitted the following valuation of applicants' property as of October 30, 1916:

Physical Plant.

	Reproduction cost	Depreciation	Present value
Filters (3 Jewel).....	\$3,500 00	\$500 00	\$3,000 00
5,000 feet 4" pipe line.....	3,500 00	3,150 00	450 00
3,800 feet 6" pipe line.....	3,420 00		3,420 00
2,200 feet 2" pipe line.....	660 00	220 00	440 00
Meters (56 services).....	800 00		800 00
2 wells	2,342 00		2,342 00
Engineering and incidentals.....			1,438 00
Real estate			5,000 00
			\$16,890 00

Intangible Assets.

Value of contracts with Spring Valley Water Company.....	\$39,000 00
Value of developed water at wells.....	20,000 00
	\$59,000 00
Total value	\$75,890 00

James Armstrong, one of the commission's engineers, made an examination of applicant's property and submitted a report upon the same, including an estimate of the property's reproduction cost new and its reproduction cost less depreciation, and a comparative table of the two estimates as follows:

Item	Hammatt		Armstrong	
	R. C.	D. R. C.	R. C.	D. R. C.
Existing physical structures.....	\$15,660	\$11,890	\$16,796	\$10,829
Proposed physical structures.....	24,574	24,574	24,574	24,574
Lands and rights of way.....	5,000	5,000	5,000	5,000
Value Spring Valley Water Co. contracts.....	39,000	39,000		
Value development well water.....	20,000	20,000		
Totals	\$104,234	\$100,464	\$46,370	\$40,403

It will be noticed that the report of the commission's engineer does not attempt to place any value upon the contracts with the Spring Valley Water Company or the development of well water (aside from the cost of the water-bearing land and the cost of sinking the wells). While we consider the estimates of these intangible assets submitted by applicant to be out of all possible proportion to their actual value, still there is no need of our considering the question at this time, as the value of applicant's physical property, together with the proposed improvements will, apparently, be sufficient to justify us in authorizing the issue of the amounts of the bonds requested at this time.

Applicant's articles of incorporation provide for a total stock issue of \$300,000.00 divided into 2,000 shares of the par value of \$100.00 per share. All of said stock is issued and outstanding, being held as follows:

Henry Bowie	400 shares
George H. Howard	400 shares
J. H. P. Howard	399 shares
Julia D. Beylard	399 shares
Agnes H. Hayne	399 shares
E. D. Beylard	1 share
Duncan Hayne	1 share
John A. Hoey	1 share
Total	2,000 shares

Applicant reports that it has no bonded or other indebtedness, other than its current bills, except as follows:

(a) A one-day note upon which \$300.00 is still due. This note was originally for \$750.00;

(b) On October 31, 1916, applicant acquired a deed to certain property from the Bowie Estate Company, Duncan Hayne and J. H. P. Howard, agreeing to issue \$5,000.00 face value of bonds or notes in payment therefor.

The income and profit and loss accounts of Cherry Cañon Water Company for the last four years ending December 31st are as follows:

	1912	1913	1914	1915
Operating revenues	\$2,560 62	\$2,267 46	\$3,235 56	\$2,622 36
Operating expenses	682 69	999 18	794 00	961 41
Net operating revenue	\$1,877 93	\$1,268 28	\$2,441 56	\$1,661 95
Nonoperating revenue				8 50
Gross income	\$1,877 93	\$1,268 28	\$2,441 56	\$1,666 45
Interest			81 77	50
Other deductions			27 68	
Balance to profit and loss	\$1,877 93	\$1,268 28	\$2,332 11	\$1,665 95
Balance at beginning of year	\$4,626 81	\$6,504 74	\$7,773 02	\$10,127 28
Balance for year from income	1,877 93	1,268 28	2,332 11	1,665 95
Miscellaneous additions			22 15	
Balance at end of year	\$6,504 74	\$7,773 02	\$10,127 28	\$11,793 23

No dividends have been declared or paid by applicant during the past five years. Both Mr. Hammatt and Mr. Armstrong have estimated that applicant's income will be materially increased by the installation of the improvements under the proposed bond issue. While these estimates seem to us to be somewhat overoptimistic, there appears to be little doubt but that applicant's income under its existing rates will be sufficient to pay depreciation and interest on \$30,000.00 of bonds.

Applicant has submitted a copy of its proposed mortgage or deed of trust to Mercantile Trust Company of San Francisco, securing its bond issue. Under its terms, the bonds are to be dated November 1, 1916, and to mature November 1, 1936. They will be callable at 101 and accrued interest and will be secured by all property now owned or hereafter secured by applicant. Provision is made for a sinking fund by setting aside annually from and after November 1, 1919, an amount equal to 5 per cent of the outstanding bonds. In general, a majority of the bondholders may control the proceedings.

The additions and betterments which applicant desires to make at the present time or in the near future are as follows:

Section A: Replacement of existing lines:

1,000 feet 6-inch pipe line-----	\$900 00
2,600 feet 4-inch pipe line-----	1,820 00
Engineering and incidentals-----	272 00

Additional water supply:

Pumping plant at wells-----	1,800 00
Pipe line to receiving tanks, 900 feet 6-inch pipe-----	810 00
Receiving tanks-----	1,500 00
Pipe line to connect with existing system, 4,500 feet 6-inch pipe line-----	4,050 00
Engineering and incidentals-----	816 00

Upper zone supply:

Pumping plant-----	\$1,000 00
Electrical transmission line-----	200 00
Pipe line to upper tanks, 1,500 feet 3-inch pipe--	750 00
Upper tanks-----	900 00
Engineering and incidentals-----	285 00
	<hr/>
	\$15,103 00

Section B: Extension of system from high tanks on westerly line of property to serve the highest zone on southerly side of the creek:

1,700 feet of 3-inch supply pipe-----	\$850 00
2 2,500-gallon tanks-----	900 00
2,300 feet 4-inch pipe-----	1,610 00
Engineering and incidentals-----	336 00
	<hr/>
	3,696 00

Section C: Reservoir on Santa Ynez avenue with supply line for filters:

Reservoir and appurtenances-----	\$2,500 00
1,500 feet 6-inch pipe-----	1,350 00
Engineering and incidentals-----	385 00
	<hr/>
	4,235 00

Section D: Four-inch main from Santa Ynez avenue

to uppermost part of intermediate zone :		
2,000 feet 4-inch pipe-----	\$1,400 00	
Engine ring and incidentals-----	140 00	
		1,540 00
Total -----		\$24,574 00

The extensions which applicant intends to make will serve a subdivision of real estate controlled by applicant's principal stockholders and not now occupied as, or suitable for, suburban property, owing to the absence of any water supply. It is but fair to state that in a transaction of this kind, a question might very possibly arise at some future date as to what proportion of the cost of these extensions should be credited to applicant's plant and how much should be charged to the development of the subdivision to be served.

Applicant charges its consumers, excepting under the special contracts above referred to, 30 cents per thousand gallons, with a minimum of \$1.50 per month. Applicant reported 56 services as of October 30, 1916.

The proposed trust deed, as amended by applicant with the consent of the commission at the hearing of the application, appears to us satisfactory for the purposes of this proceeding, and we are of the opinion that the application should be granted.

ORDER.

Hillsborough Water Company having applied to this commission for an order authorizing the creation of a bonded indebtedness of \$50,000.00 and the issue of \$30,000.00 of bonds at not less than 95 per cent of their face value, and a public hearing having been held upon said application, and this commission finding that the purposes for which the said bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted subject to the conditions hereinafter set forth,

It is hereby ordered that Hillsborough Water Company be and the same is hereby authorized to execute a mortgage or deed of trust of all its property to Mercantile Trust Company of San Francisco to secure a bonded indebtedness of \$50,000.00 face value of twenty-year gold bonds maturing November, 1936, said bonds to be of the face value of \$1,000.00 each, and to bear interest at the rate of 6 per cent per annum.

It is hereby further ordered that Hillsborough Water Company be and the same is hereby granted authority to issue \$30,000.00 face value of said bonds. The authority herein granted to execute said mortgage

or deed of trust and to issue said bonds is granted upon the following conditions, and not otherwise:

1. Five of said bonds of the total value of \$5,000.00 shall be paid to Bowie Estate Company, Duncan Hayne and J. H. P. Howard, in payment for the real estate and rights of way referred to in the foregoing opinion as having been acquired by applicant from the above mentioned persons at an agreed purchase price of \$5,000.00.

2. The remaining \$25,000.00 of bonds herein authorized to be issued shall be issued so as to net applicant in cash not less than 95 per cent of the face value of the principal thereof and accrued interest thereon.

3. The mortgage or deed of trust herein authorized to be executed by applicant shall be substantially in the form and substance of the proposed deed of trust of applicant as amended, a copy of which, marked "Exhibit G" and filed with this commission November 3, 1916, is annexed to the application in the above-entitled matter.

4. The proceeds of the bonds herein authorized to be issued shall be applied as follows:

(a) To payment for the real estate and rights of way above referred to, five bonds of the face value of-----	\$5,000 00
(b) To reimbursement of applicant's treasury for money expended from income in the sinking of the two wells referred to in the foregoing opinion-----	2,341 55
(c) To the extensions, additions and improvements set forth in the opinion which precedes this order under the designations of sections A, B, C, and D, of a total estimated cost of \$24,574.00 -----	21,408 45
Total -----	\$28,750 00

5. The authority herein granted to execute the mortgage or deed of trust above referred to and to issue the bonds as above mentioned shall apply only to such mortgage or deed of trust as shall have been executed and to such bonds as have been issued on or before June 30, 1917.

6. The approval herein given on the proposed mortgage or deed of trust securing the bond issue is for the purpose of this proceeding only, and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which it may be subject.

7. Hillsborough Water Company shall keep a true and accurate account showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued, and shall, on or before the twenty-fifth day of each month, make a verified report to this commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance

with this commission's General Order No. 24, which order, in so far as applicable is made a part of this order.

8. This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3908.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER A PROPOSED FRANCHISE FROM THE COUNTY OF YOLO.

Application No. 2320.

Decided December 2, 1916.

Applicant, having obtained a franchise permitting the construction and operation of an electrical distributing system in certain portions of the county of Yolo, and having filed a stipulation to the effect that it will not hereafter claim a value for such franchise in excess of the actual cost thereof, certificate granted covering that portion of Yolo County not now served by Pacific Gas and Electric Company.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas this commission in an order dated June 22, 1916 (Decision No. 3452), formally declared that public convenience and necessity required the extension of the power line of Northern California Power Company, Consolidated, from College City to Dunnigan, Yolo County, and the furnishing by it of electric energy to all that portion of Yolo County not now served by Pacific Gas and Electric Company, and the exercise within such territory of the rights and privileges which may be granted under a franchise for which said corporation has applied to the county of Yolo; and

Whereas said order was made subject to the following conditions:

“Provided that upon the granting by the county of Yolo of the franchise for which application has been made, as set forth in the foregoing opinion, Northern California Power Company, Consolidated, shall file with this commission a supplemental application, under the provisions of section 50 of the Public Utilities Act, for a certificate that public convenience and necessity require the exercise by said corporation of the rights and privileges under said franchise;

“And provided further that Northern California Power Company, Consolidated, shall, before obtaining said certificate of public convenience and necessity, have first filed with this commission a stipulation

duly authorized by its board of directors, agreeing that said Northern California Power Company, Consolidated, its successors and assigns, will never claim before the Railroad Commission of the state of California, or any other public authority, any value for the franchise granted by said county of Yolo in excess of the actual cost thereof, and shall have secured from this commission a further supplemental order herein, declaring that such stipulation satisfactory to the Railroad Commission has been filed;" and

Whereas on the 14th day of July, 1916, the board of supervisors of the county of Yolo passed an ordinance, designated as Ordinance No. 90, by which applicant was granted the franchise above referred to; and

Whereas applicant has now filed with this commission a stipulation as above set forth, and it appearing to this commission that said stipulation is in form satisfactory to this commission, so far as may be necessary for the purposes of this proceeding, the Railroad Commission hereby finds as a fact that present and future public convenience and necessity require the extension of the power line of Northern California Power Company, Consolidated, from College City to Dunnigan, Yolo County, and the furnishing by it of electric energy to all that portion of Yolo County not now served by Pacific Gas and Electric Company, and the exercise within said territory of the rights and privileges granted applicant under the privileges above referred to,

And the Railroad Commission hereby finds as a further fact that said Northern California Power Company, Consolidated, has filed said stipulation satisfactory to this commission, thereby complying with the conditions of the order in said Decision No. 3452.

Dated at San Francisco, California, this 2d day of December, 1916.

DECISION No. 3909.

IN THE MATTER OF THE APPLICATION OF THE WILLOWBROOK
WATER COMPANY FOR VALIDATION OF STOCK HERETOFORE
ISSUED.

Application No. 2486.

Decided December 2, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas stockholders of Willowbrook Water Company, it is reported, desire to reduce the par value of the 2,500 authorized shares of stock of said company from \$10.00 to \$1.00 and to exchange the said proposed new shares for the old shares outstanding of the par value of

\$10.00 each rather than in the ratios provided in the original and supplemental order herein, and there appearing to be no objection to such course on behalf of the public,

It is hereby ordered that the second and last paragraphs of the order contained in Decision No. 3752 of October 4, 1916, be and they are respectively hereby amended to read as follows:

It is hereby ordered that Willowbrook Water Company be and it is hereby authorized to issue to the holders of certificates for shares of its capital stock heretofore issued by it without authority and to holders of the stock of said former corporation also named Willowbrook Water Company, 1,559 shares of the capital stock of said applicant of the par value of \$1.00 per share in lieu of and upon cancellation and surrender of 1,559 shares of the said stock heretofore issued and now outstanding; said stock to be exchanged from time to time, share for share.

The authority herein granted shall apply only to such stock as shall have been issued hereunder on or before February 15, 1917.

In all other respects said order contained in said Decision No. 3752 shall remain in full force and effect.

This order supersedes and takes the place of supplemental order contained in Decision No. 3802, which said supplemental order is hereby set aside.

Dated at San Francisco, California, this 2d day of December, 1916.

Decisions Nos. 3910, 3911 and 3912, grade crossings; not printed. See end of volume.

DECISION No. 3913.

IN THE MATTER OF THE APPLICATION OF RIVER FARMS COMPANY OF CALIFORNIA FOR AN ORDER EXCLUDING IT FROM THE JURISDICTION OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Application No. 2656.

Decided December 6, 1916.

Applicant, operating a small warehouse in connection with its landed operations, is granted permission to discontinue operation of the same so as to permit it to mortgage its lands and issue bonds without authorization of the commission.

REPORT OF THE COMMISSION.

Whereas River Farms Company of California is engaged primarily in the business of general farming of agricultural lands upon the west bank of the Sacramento River, extending northward along said Sacramento River from the town of Knights Landing, in Yolo County, for a distance of about thirty miles; and

Whereas said company also owns and operates a small public utility warehouse commonly known as "Yolo Land Company Warehouse"; and

Whereas applicant desires to mortgage all of its real estate in order to secure bonds of the face value of two million (2,000,000) dollars; and

Whereas it appears that inasmuch as applicant is owning and operating said public utility warehouse, applicant must obtain the consent of the Railroad Commission to the issue of said bonds, none of which are to be used in a public utility business, unless applicant ceases to conduct said public utility warehouse business; and

Whereas applicant has accordingly filed the present application, asking authority of the Railroad Commission to discontinue operating said Yolo Land Company Warehouse as a public utility; and

Whereas said public utility warehouse has been operated only for the convenience of a few tenants of applicant; and

Whereas other storage facilities will be made available for said tenants; and

Whereas it appears to the Railroad Commission that the present application is reasonable and should be granted, with the result that applicant may mortgage its properties and issue said bonds without obtaining the consent of the Railroad Commission,

It is hereby ordered that River Farms Company of California be and it is hereby granted authority from the date of this order to discontinue the operation of said Yolo Land Company Warehouse as a public utility warehouse subject to the jurisdiction of the Railroad Commission.

Dated at San Francisco, California, this 6th day of December, 1916.

DECISION No. 3914.

IN THE MATTER OF THE APPLICATION OF J. C. DANNER TO SELL,
AND OF G. W. BANDY TO PURCHASE, A TELEPHONE SYSTEM.

Application No. 2597.

Decided December 6, 1916.

J. C. Danner, operating a small telephone system in portions of Kern and Tulare counties, is authorized to transfer the same to G. W. Bandy for the sum of \$2,500.00, such purchase price not to be considered as binding upon the Railroad Commission or other rate-fixing bodies in a proceeding to establish or revise rates.

John T. Fuller, for Applicants.

REPORT OF THE COMMISSION.

Applicants seek authority to transfer a small telephone system now operated as an unincorporated public utility in Tulare and Kern counties for the purchase price of \$2,500.00 cash, free of incumbrance.

The system, which extends from the city of Porterville, in Tulare County, through White River and intermediate points to Onyx, in Kern County, consists of a No. 12 iron metallic toll line extending between Porterville and White River, a distance of about $22\frac{7}{10}$ miles; one No. 12 iron metallic subscribers line extending about eight miles out of Porterville; and about $61\frac{1}{2}$ miles of No. 12 iron single or grounded subscribers lines between White River and contiguous points, together with 58 subscribers stations and two small wall type switchboards. No real estate, franchise or permit is included.

Mr. Danner, the owner, began constructing the system in 1909 while living at White River. He does not now live along the system and is financially unable to operate it or make extensions. Mr. Bandy, the prospective purchaser, is employed in electrical work in the territory through which the system extends. The commission is satisfied of his ability properly to operate and conduct said telephone system as a public utility.

The system cost about \$4,130.00, and Mr. Danner estimates its present value at about \$3,500.00. The commission has not inspected nor appraised the property, but from the testimony of Mr. Danner as to the various items of property involved there appears to be no reason to doubt that it is worth \$2,500.00 for the purposes of this proceeding. No franchise or formal permit has been procured for the system. The purchaser agrees to procure such franchises, if any, as may hereafter be required. We draw attention to the fact that if franchises or permits are procured it will become necessary, under the Public Utilities Act, before any such rights and privileges are exercised, that a certificate of the Railroad Commission be first obtained declaring that public convenience and necessity require the exercise of such rights and privileges.

ORDER.

Application having been made to the Railroad Commission by J. C. Danner to sell and convey to G. W. Bandy for the sum of \$2,500.00 cash, a public utility telephone system, unincorporated, extending from the city of Porterville, Tulare County, through White River, Glennville, Isabella and Weldon, to Onyx and Kernville in Kern County, and a public hearing having been held thereon, and it appearing to the Railroad Commission that this application should be granted,

It is hereby ordered by the Railroad Commission of the state of California that J. C. Danner be and he is hereby authorized to sell and convey the telephone system hereinabove described free of encumbrance to G. W. Bandy for the sum of \$2,500.00 in cash upon delivery of suitable transfer to be hereafter executed, vesting perfect title to said system in said purchaser.

The authority hereby granted is upon the following conditions and not otherwise, to wit:

1. The authority hereby granted shall not be considered before this commission or any other tribunal as determining the value of the said property for the purpose of fixing rates or for any other purpose than that of the present application.

2. The authority hereby granted shall apply only to such property as shall have been hereafter conveyed on or before thirty days after date of supplemental order herein.

3. Within ten days after receiving conveyance of said property purchaser shall file with the Railroad Commission a copy of said conveyance, together with a statement of the consideration actually paid by him for the property and rights conveyed to him.

4. Until the further order of the commission, said G. W. Bandy shall maintain the telephone rates and service heretofore furnished the public by J. C. Danner.

5. G. W. Bandy shall file with the Railroad Commission within twenty (20) days from date a stipulation agreeing for himself, his successors and assigns, that he and they will never claim in any proceeding before the Railroad Commission, any court or any other public authority, any value for any franchise or permit to use the roads, highways and public places other than those which may be hereafter acquired; and then only the actual cost thereof, said statement and stipulation to be in form satisfactory to the Railroad Commission.

6. The authority herein granted shall not become effective until the Railroad Commission shall have entered its supplemental order herein, reciting that said stipulation in form satisfactory to it has been filed with the Railroad Commission.

Dated at San Francisco, California, this 6th day of December, 1916.

Decision No. 3915, grade crossing; not printed. See end of volume.

DECISION No. 3916.

IN THE MATTER OF THE APPLICATION OF ARCADIA CRYSTAL WATER COMPANY FOR PERMISSION TO SELL ITS PUMPING PLANT, WELLS AND LAND HOLDINGS AND TO DIVIDE THE PROCEEDS FROM THE SALE PROPORTIONALLY AMONG THE OWNERS OF SAID PUMPING PLANT, WELLS, AND LAND.

Application No. 2184.

Decided December 6, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas by Decision No. 3268 of April 21, 1916, above applicant was authorized to abandon service to its patrons as soon as they were adequately served with water by the city of Arcadia; but upon condition that applicant's pumping plant be kept intact, in condition to promptly and adequately serve water for a period of six months after the date thereof; and

Whereas the said period of six months has expired and said city of Arcadia has filed an instrument in writing with the commission, assuming the obligations of said company to serve its patrons with water; and

Whereas by written application filed with the commission on December 4th said Arcadia Crystal Water Company asks authority to sell its said pumping plant, wells and land holdings,

It is hereby ordered by the Railroad Commission of the state of California that Arcadia Crystal Water Company having complied with the condition imposed upon it by the order in said Decision No. 3268, is no longer required to keep its said pumping plant in condition to serve water and is authorized to dispose of its said pumping plant in such manner and upon such terms and conditions as it may deem advisable.

Dated at San Francisco, California, this 6th day of December, 1916.

DECISION No. 3917.

IN THE MATTER OF THE APPLICATION OF THE CITY OF OAKLAND
FOR AN ORDER REQUIRING THE CONSTRUCTION AND MAINTENANCE OF A GRADE CROSSING ACROSS THE RAILROAD TRACKS
AND RIGHT OF WAY OF CENTRAL PACIFIC RAILWAY COMPANY
AT CHAPMAN STREET BETWEEN FRUITVALE AVENUE AND
LANCASTER STREET IN SAID CITY OF OAKLAND.

Application No. 2573.

Decided December 6, 1916.

Applicant applies for permission to open Chapman street at grade across the tracks of Southern Pacific Company, which application is granted provided an existing crossing in the vicinity is closed to traffic.

John J. Earle, for Applicant.

George D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

Chapman street, which the city of Oakland seeks permission to open in this application, is an east and west street. The crossing proposed is with three tracks of the Central Pacific Railway Company operated by the Southern Pacific Company. Two of these tracks are devoted to electric suburban service and the third is used for switching purposes. The tracks at the point of crossing, and for some distance north and south of it, are west of Fruitvale avenue and adjacent to it. This street is the main artery of travel for north and south traffic in the neighborhood, and Chapman street will connect with it if the permission sought herein is granted. There are no streets open across the track for some distance southerly from Chapman, but the country is not settled and there appears to be no reason for crossings here at the present time. North of Chapman street, Boehmer street, parallel and 200 feet away, is open, and north of that street and approximately parallel with it and but 160 feet distant, Elmwood avenue, sometimes known as Division street, is also opened. Chapman street is paved from the railroad right of way for several blocks to the west, and Ford street, which is parallel to Chapman and 200 feet south, is paved from Lancaster, a north and south street, westerly. Elmwood and Boehmer are macadamized but not paved. Lancaster and other north and south streets west of the track, which connect the east and west streets, are entirely unimproved.

It appears from the testimony that the principal need for a crossing at Chapman street is occasioned by the lack of an improved north and south street in the vicinity of the proposed crossing. Chapman is not opened to the east of Fruitvale avenue and there is little traffic from

one side of the track to the other except that which comes to and from Fruitvale avenue.

With no north and south streets improved, during certain seasons of the year it is difficult to reach the east and west improved streets except by crossing the track and using Fruitvale avenue. As long as this condition exists there is no doubt that the opening of Chapman street will add to the convenience of those who use the streets in this part of the city. It does not appear to me, however, that the commission should grant new crossings when the same purpose can be served by paving adjacent streets. If Chapman street is opened there will be three open crossings within a distance of less than 500 feet, and, although the traffic on the railroad consists principally of electric cars, there are over 62 movements per day upon the crossings. The opening of a crossing at Chapman, without the paving of a north and south cross street, would invite traffic to make extra trips across the track. With a north and south paved street a crossing would not be particularly needed.

Some consideration was given to the closing of Boehmer street and the opening of Chapman. As far as the commission is concerned it is not material which of these two streets is opened, as physical conditions are the same at both of them and one is about as safe as the other. If the city desires to open Chapman and close Boehmer it should be permitted to do so, but I am convinced that conditions will not be satisfactory until a north and south street is improved between Chapman and Elmwood.

I recommend the following form of order :

ORDER.

City of Oakland, having applied for permission to construct Chapman street at grade across the tracks of Central Pacific Railway Company, and a public hearing having been held and it appearing that this application should be granted only if Boehmer street is closed,

It is hereby ordered that permission be and the same hereby is granted city of Oakland to construct Chapman street at grade across the tracks of Central Pacific Railway Company at the point and in the manner shown by the map attached to the application, subject to the following conditions and not otherwise :

(1) The public highway crossing existing at Boehmer street shall be closed and abandoned as a public highway crossing.

(2) The entire expense of constructing the crossing at Chapman street, together with the expense of its maintenance thereafter, shall be borne by the applicant except for that portion of the track between the rails and to a distance of two (2) feet outside thereof, which shall be maintained by the railroad company.

(3) Crossing shall be constructed of a width not less than thirty (30) feet, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 6th day of December, 1916.

DECISION No. 3918.

CITY OF LOS BANOS

vs.

WEST SAN JOAQUIN VALLEY WATER COMPANY.

Case No. 822.

IN THE MATTER OF THE APPLICATION OF WEST SAN JOAQUIN VALLEY WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN WATER RATES.

Application No. 1854.

Decided December 6, 1916.

A check of respondent's revenues showing that the schedule of rates heretofore established does not provide the revenue to which it was found respondent is entitled, the fire hydrant rental is revised to provide a charge of \$100.00 per month, irrespective of the number of hydrants, instead of \$1.25 per hydrant per month as heretofore established. Balance of rates and order directing the installation of chlorination apparatus and the extension of mains to Wilson Subdivision to remain in effect.

Stephen P. Galvin, for city of Los Banos.

Edward F. Treadwell, for West San Joaquin Valley Water Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

OPINION ON REHEARING.

The West San Joaquin Valley Water Company has applied for a rehearing upon the last order of this commission in these cases issued October 10, 1916, under Decision No. 3775.

Since the original order prescribing the rates to be charged by West San Joaquin Valley Water Company was made a careful check has

been kept to determine whether said rates would return the amount of increased revenue to which the commission found the company to be entitled. This check has revealed the fact that said rates will not return the amount of revenue intended. Accordingly, it is necessary so to revise the schedule of rates as to provide for this deficit. The manner in which the schedule should be so revised has been considered by the commission, the city of Los Banos and the company. It has been concluded to revise the schedule in respect to the annual charge for fire hydrant service. This revision has been approved by the city attorney of Los Banos as being the most fair and proper way to meet the deficit.

The charge at present in effect for hydrant rental is \$1.25 per hydrant per month and I find it necessary to increase the payment for fire protection to a flat charge of \$100.00 per month irrespective of the number of hydrants. In all other respects the former schedule of rates shall remain as before outlined.

ORDER.

West San Joaquin Valley Water Company having applied for a rehearing in these proceedings and it appearing to this commission that the schedule previously outlined may not provide the revenue to which the utility has been found entitled,

It is hereby ordered by the Railroad Commission of California that the order heretofore made and filed in Decision No. 3775 herein be and the same is hereby modified to read as follows:

West San Joaquin Valley Water Company is hereby ordered to extend its mains into the Wilson Resubdivision so as to furnish adequate domestic service and fire protection to that district; and

West San Joaquin Valley Water Company is hereby ordered to install a chlorination apparatus for water delivered to its consumers in Los Banos and adjacent territory.

The Railroad Commission of California hereby finds as a fact that the rates now charged by West San Joaquin Valley Water Company for water are unjust and unreasonable in so far as they differ from the rates hereafter established.

The Railroad Commission of California hereby finds as a fact that the following rates are just and reasonable rates to be charged for water sold by West San Joaquin Valley Water Company, and hereby establishes such schedule as the rates which said company is authorized to collect under the provisions of this order:

Flat Rates.

\$1.80 per month for tenements occupied by a single family or private boarding house, and to include toilet and bath fixtures.

\$100 per month to be paid by the town of Los Banos for fire service.

All other flat rates as per Ordinance No. 71, of the city of Los Banos, at present in effect.

Meter Rates.

\$1.50 per month for 500 cubic feet or less.

20 cents per 100 cubic feet for the next 1,000 cubic feet.

15 cents per 100 cubic feet for all excess over 1,500 cubic feet per month.

Meters to be installed at option of consumer or utility.

Municipal Use.

15 cents per 100 cubic feet.

This order hereby supersedes the order made by this commission in these proceedings on October 10, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 6th day of December, 1916.

DECISION No. 3919.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON ITS RAILROAD TRACKS ON AVENUE SIXTY-FOUR IN THE CITY OF LOS ANGELES, FROM A POINT 230 FEET NORTH OF POLLARD STREET IN THE CITY OF LOS ANGELES TO THE NORTH LIMITS THEREOF, AND IN THE COUNTY OF LOS ANGELES ON MOUNTAIN AVENUE FROM SAID CITY LIMITS TO THE END OF SAID LINE AT THE ANNANDALE GOLF LINKS, IN THE COUNTY OF LOS ANGELES, CALIFORNIA.

Application No. 2369.

Decided December 11, 1916.

REPORT OF THE COMMISSION.**ORDER OF DISMISSAL.**

Applicant in the proceeding entitled as above having, on December 8, 1916, requested that this matter be dismissed.

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 11th day of December, 1916.

DECISION No. 3920.

BEVERLY HILLS CORPORATION

vs.

BEVERLY HILLS UTILITIES COMPANY.

Case No. 1003.

Decided December 11, 1916.

Petition to have the commission compel defendant to extend its service to the lands of complainant. A test of defendant's available supply of water shows that it is at present delivering water up to within 5 per cent of its total supply, and that it is unable at the present time to serve consumers in addition to those at present receiving service. Complaint dismissed without prejudice.

Cassius D. Blair, for Complainant.

Gibson, Dunn & Crutcher, by *S. M. Haskins*, for Defendant.

O'Melveny, Stevens & Millikin, by *Sayre Macneil*, for Intervener,
Henry J. Stevens.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This case being at issue upon complaint and answer regularly filed and a hearing having been held at Los Angeles, November 27, 1916, at which time testimony in support of the pleadings was submitted, and the commission having carefully considered the matters and things involved, it is now ready for decision.

Beverly Hills Corporation, complainant in this proceeding, owns approximately 100 acres of undeveloped residence property within the city of Beverly Hills, in the county of Los Angeles. In order to make this land attractive as villa sites to purchasers or members of the complainant corporation, water is absolutely necessary. The defendant utility has refused water service to complainant, although defendant is the only public utility delivering water for pay within the city of Beverly Hills.

Defendant, the Beverly Hills Utilities Company, contended and supported said contention by testimony that it had limited its service of water to the lands placed upon the market by its predecessor, the Rodeo Land and Water Company, and had never proposed to serve any other lands. It also alleged that said lands of the Rodeo Land and Water Company would require all of its available water, for which reason it could not serve complainant or others. A study and test of defendant's water supply was made by defendant's engineers in August, 1916, and based upon that study and test the testimony at the hearing of the case was that the use of the water in said month was within 5 per cent of

the yield and that it had found it necessary to and had notified one large user, a truck gardener, that the company could not furnish him with water after the termination of his lease, which would expire this year. All water used is metered, and with a proper test of the supply it was easy to apply aggregate sales against such supply.

On February 10, 1916, defendant filed with the Railroad Commission a description of the lands it proposed to serve, such filing being in connection with the file of defendant's rates, etc. This description so filed by defendant included the lands upon which complainant now asks for the service of water, but when defendant's attention was called to this it claimed that the inclusion of complainant's lands in such filing was an error and that it had never intended to assume the obligation of serving water to lands other than the lands of its predecessor, the Rodeo Land and Water Company.

The commission does not feel it necessary at this time to determine whether such inclusion of complainant's lands in its filing with the commission constitutes a profession by defendant that it intended to serve such lands for the reason that the testimony as to defendant's inability to serve lands other than those which it is now serving and which it has obligated itself to serve by reason of an insufficient supply of water, is uncontroverted.

The intervener in this proceeding, Mr. Henry J. Stevens, supported the testimony of defendant, and a protest signed by forty property owners in Beverly Hills was filed, claiming that rights, guaranteed to them when they purchased their lots, would be seriously jeopardized if defendant was ordered to supply territory other than the lands of the Rodeo Land and Water Company.

Upon the testimony presented I find it unreasonable to require Beverly Hills Utilities Company to furnish water to the land of the complainant.

ORDER.

Beverly Hills Corporation having filed its complaint against Beverly Hills Utilities Company, alleging refusal to extend water service, and a hearing having been held and being fully apprised in the premises,

It is hereby ordered that the complaint be dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 11th day of December, 1916.

DECISION No. 3921.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE A CROSSING WITH THE PACIFIC ELECTRIC RAILWAY COMPANY AT A POINT IN PHILADELPHIA STREET, IN THE CITY OF WHITTIER, LOS ANGELES COUNTY, CALIFORNIA, AND ALSO TO CONSTRUCT FIVE CERTAIN OVERHEAD CROSSINGS AND NINE CROSSINGS AT GRADE.

Application No. 2614.

Decided December 11, 1916.

Applicant proposes to construct an extension from Pico to Whittier, which extension will cross five streets at separated grades and nine at grade. No objection was made to such construction, and it appearing that operations over such extension will amount to practically spur track service, application granted, provided, where tracks cross those of Pacific Electric Railway, the cars and trains of both companies shall come to a full stop.

F. E. Pettit, Jr., for Applicant.

Frank Karr, for Pacific Electric Railway Company.

W. W. Patch, for State Highway Commission.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The applicant is building a branch line railroad from Pico, on its main line, to the city of Whittier, and desires to build the crossings applied for in connection with that construction. Of the fourteen crossings proposed five are to be made on overhead structures and nine are to be made at grade. On Philadelphia street, which is to be crossed at grade, is a double track line of the Pacific Electric Railway Company.

All the parties interested in this matter, that is, the city of Whittier, the State Highway Commission and the Pacific Electric Railway Company, have given their consent to the crossings being made, and there seems to be no reason why this application should not be granted. The grade crossings will not be dangerous at the present time since the train service over the line, for some years at least, will amount to little more than spur track operation.

At the track intersection both companies have agreed to stop all trains and cars before passing over the crossing, and this will be made a condition of the order in addition to the usual conditions and two other minor matters which were discussed at the hearing and agreed to by the applicant.

I recommend the following form of order:

ORDER.

Los Angeles and Salt Lake Railroad Company having applied to the commission to construct crossings of the city streets of Whittier and

the state highway, county roads in Los Angeles County and the tracks of Pacific Electric Railway Company, and a public hearing having been held, and it appearing that this application should be granted, subject to certain conditions,

It is hereby ordered that applicant be and the same hereby is granted permission to construct its tracks over the following-named streets and highways, and the tracks of the Pacific Electric Railway Company, at the points and in the manner shown by the maps attached to the application: Above grade at the Workman Mill road in Los Angeles County, Pickering avenue and Short street in the city of Whittier, Whittier boulevard (the state highway), and the Santa Fe Springs road; and to cross at grade the following streets and highways: Guirado street, Palm avenue, Magnolia avenue, Hadley street, Bailey street, Gregory avenue, Philadelphia street, Penn street and Sunny Slope street; and the tracks of Pacific Electric Railway Company; all of the above to be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(2) The overhead crossings shall, in all ways, conform to the Commission's General Order No. 26.

(3) The grade crossings shall be constructed of a width and type of construction to conform to those portions of the streets to be crossed now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(4) All engines, trains, motors and cars of applicant and Pacific Electric Railway Company shall, before passing over the track grade crossing, come to a full stop and shall not proceed until it has been ascertained that it is safe to do so.

(5) The cypress trees along Magnolia avenue shall be removed for a distance of 75 feet on both sides of the center line of the proposed track.

(6) Applicant shall, at its own expense, cause to be constructed a road southerly from its track connecting Bailey street and Gregory avenue.

(7) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 11th day of December, 1916.

DECISION No. 3922.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR THEMSELVES AND ON BEHALF OF CARRIERS, PARTIES TO TARIFFS OF THE PACIFIC FREIGHT TARIFF BUREAU, FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (a) OF THE PUBLIC UTILITIES ACT RELATING TO INTERMEDIATE CLASS RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-A.

Decided December 12, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The commission, on June 19, 1916, made an order in the above-entitled proceedings, and enumerated therein the tariffs containing class rates in violation of the long and short haul provisions of the constitution, which violations the carriers were authorized to continue.

Third paragraph of the original order reads:

"It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals."

Under this section of the order, the authority granted under the original order is hereby extended to include the following tariffs containing class rates:

C.R.C. No.	Description of tariffs
1903	Local Joint and Proportional Freight Tariff No. 763-D (class rates to and from points located on Colusa-Hamilton branch).
1906	Joint and Proportional Tariff No. 707-D (class rates to and from points located on Santa Maria Valley Railroad Company).

Dated at San Francisco, California, this 12th day of December, 1916.

DECISION No. 3923.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR THEMSELVES AND ON BEHALF OF CARRIERS, PARTIES TO TARIFFS OF THE PACIFIC FREIGHT TARIFF BUREAU, FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (a) OF THE PUBLIC UTILITIES ACT RELATING TO INTERMEDIATE COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-E.

Decided December 12, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The commission, on June 19, 1916, made an order in the above-entitled proceedings, and included a list of the tariffs containing commodity rates in violation of the long and short haul provisions of the constitution, which violations the carriers were authorized to continue.

Third paragraph of the original order reads:

"It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals."

Under this section of the order, the authority granted under the original order is hereby extended to include the following tariffs containing commodity rates:

No. C.R.C.	Description of tariffs
1650*	Local Joint and Proportional Freight Tariff No. 602-A (applying on hay and straw, C. L.).
1903	Local Joint and Proportional Freight Tariff No. 763-D (commodity rates to and from points located on Colusa-Hamilton branch).
1906	Joint and Proportional Tariff No. 707-D (commodity rates to and from points located on Santa Maria Valley Railroad Company).

*Authority extended to include this tariff on account of commodity rates having been published on basis of Class C rates on an order of this Commission.

Dated at San Francisco, California, this 12th day of December, 1916.

Decision 3924, grade crossing; not printed. See end of volume.

DECISION No. 3925.

SAN FRANCISCO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY AND McCLOUD RIVER RAILROAD
COMPANY.

Case No. 485.

McCORMICK-SAELTZER COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY AND McCLOUD RIVER RAILROAD
COMPANY.

Case No. 580.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO CLASS
RATES OF SOUTHERN PACIFIC COMPANY, BETWEEN ALL POINTS
SAN FRANCISCO-SAN JOSE AND POINTS NORTH THEREOF TO
AND INCLUDING THE OREGON STATE LINE.

Case No. 686.

Decided December 12, 1916.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

San Francisco Chamber of Commerce having on December 2, 1916, filed an application for rehearing in the above-entitled proceedings, to which the commission has given careful consideration and has concluded that there is no good reason why a rehearing should be had,

It is hereby ordered that said application for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 12th day of December, 1916.

DECISION No. 3926.

IN THE MATTER OF THE APPLICATION OF EAGLE ROCK WATER
COMPANY TO SELL ONE PORTION OF ITS WATER SYSTEM TO
CITY OF EAGLE ROCK AND THE REMAINDER OF ITS WATER
SYSTEM TO THE BOARD OF PUBLIC SERVICE COMMISSIONERS
OF THE CITY OF LOS ANGELES.

Application No. 2610.

Decided December 12, 1916.

Final order authorizing the transfer of a portion of the system of Eagle Rock Water Company to the city of Eagle Rock for the sum of \$70,000.00.

Leander O. Hatch, for City of Eagle Rock.

W. B. Mathews, for Board of Public Service Commissioners.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SUPPLEMENTAL OPINION.

In Decision No. 3874, in the matter of this application, rendered by the Railroad Commission on November 14, 1916, it was found that the city of Eagle Rock was asking permission to purchase a water utility property before the electors had favorably passed a bond issue providing funds for the same.

This Commission has now been notified by counsel for city of Eagle Rock that the election held on November 18, 1916, resulted in favor of a bond issue to provide funds for this purchase.

As was indicated in Decision No. 3874, above mentioned, a supplemental order was to be issued upon proper notification being received by this commission of the passing of the bond election.

SUPPLEMENTAL ORDER.

Eagle Rock Water Company having regularly applied to this commission to sell one portion of its water system to the Board of Public Service Commissioners of the city of Los Angeles, and the same having been heretofore approved of by this commission, and Eagle Rock Water Company having further applied to sell the remaining portion of its water system to the city of Eagle Rock, which sale has not heretofore been approved of, and now being apprised that the city of Eagle Rock has voted favorably for the acquisition of said portion of applicant's property,

It is hereby ordered by the Railroad Commission of California that Eagle Rock Water Company be permitted to sell to the city of Eagle Rock for a consideration of seventy thousand dollars (\$70,000.00) the following described property, viz:

REAL ESTATE,

lying and being in the County of Los Angeles, State of California:

Lot Thirty (30) of Myers and Kulli's Annandale Heights Tract, as per map recorded in Book 9, Page 145, of Maps, Records of said Los Angeles County, and the reservoir located on said lot;

Lot Ninety-six (96), and the East Sixty (60) feet of Lot Seventy-eight (78), lying North of Lot Ninety-six (96) of Tract Number 237, as per map recorded in Book 14, Page 70, of Maps, Records of said Los Angeles County, and the pumping plant located on said lot; subject to covenants, conditions, restrictions and reservations contained in deed recorded in Book 5636, Page 279, of Deeds, Records of said Los Angeles County;

Lot Sixty-three (63) of the Gates Tract, as per map recorded in Book 5, Page 43, of Maps, Records of said Los Angeles County, and the house located on said Lot;

Lot Thirty-seven (37) in Artesian Heights Tract, as per map recorded in Book 11, Page 38, of Maps, Records of said Los Angeles County, and the pumping plant located on said lot; subject to the covenants contained in deed recorded in Book 5042, Page 266, of Deeds, Records of said Los Angeles County;

A portion of Tract 299, as thereof recorded in Book 14, Page 64, of Maps, Records of said Los Angeles County, and bounded as follows, to-wit:

Beginning at a point that lies South $65^{\circ} 11'$ East 660.7 feet distant from the corner of said Tract, marked "Southeast corner of land of Jose M. Verdugo Superior Court Case Number 7054"; thence south $66^{\circ} 50'$ East 50 feet; thence South $23^{\circ} 10'$ West 217.8 feet; thence North $66^{\circ} 50'$ West 100 feet; thence North $23^{\circ} 10'$ East 217.8 feet; thence South $66^{\circ} 50'$ East 50 feet to the point of beginning, containing one-half acre, and the reservoir located on said lot;

Lot Sixty-two (62) of the Gates Tract, as per map recorded in Book 5, Page 43, of Maps, Records of said Los Angeles County, and the pumping plant located on said lot; subject to the covenants contained in deed recorded in Book 2749, Page 145, of Deeds, Records of said Los Angeles County;

Also all wells and water rights, and right to pump water from said wells, without restriction or reservation, located upon or connected with any and all of the real estate hereinabove particularly described.

RIGHTS OF WAY

situate in the County of Los Angeles, State of California:

All rights of way described, and as fully as the same are described, in the following mentioned deeds, to-wit:

Deed from Warehouse Realty Company to Eagle Rock Water Company, recorded in Book 4443, Page 254, of Deeds, in the office of the County Recorder of said Los Angeles County;

Deed from the Title Insurance and Trust Company to Eagle Rock Water Company, recorded in Book 3416, Page 195, of Deeds, in the office of the County Recorder of said Los Angeles County;

Deed from Edwina E. Hamilton to Eagle Rock Water Company, recorded in Book 3127, Page 164, of Deeds, in the office of the County Recorder of said Los Angeles County;

Deed from Occidental Terrace Land Company to Eagle Rock Water Company, recorded in Book 5059, Page 104, of Deeds, in the office of the County Recorder of said Los Angeles County;

Deed from Occidental Terrace Land Company to Eagle Rock Water Company, recorded in Book 5015, Page 316, of Deeds, in the office of the County Recorder of said Los Angeles County;

Deed from W. C. Weaver and Margery C. Burnett to Eagle Rock Water Company, recorded in Book 4079, Page 291, of Deeds, in the office of the County Recorder of said Los Angeles County;

Deed from Ed. M. Collins, sometimes known as Edwin M. Collins, to Eagle Rock Water Company, dated April 16, 1914;

Deed from W. C. Weaver to Eagle Rock Water Company, dated June 7, 1910;

Subject to each and all of the covenants, conditions, restrictions and reservations contained in the deeds hereinabove mentioned, and in each of them.

Also all easements and rights of way, across lands and property held in private ownership, which said Water Company now owns, or which it has any interest in, used or necessary to be used, in connection with the operation of said water system hereby conveyed, other than the rights of way hereinabove particularly mentioned and described, if any there be, whether the same were acquired by deeds or by contracts for extensions of said water system, or by prescription, or otherwise.

BOOKS, MAPS, TOOLS, SUPPLIES, ETC.

All books, maps, charts, plats, records, card index systems, deeds and papers pertaining or appurtenant to said water system, all tools, and all disconnected meters, pipe, pipe fittings, sundries, supplies, materials, articles and things purchased and on hand for use in connection with said water system for repairs or extensions thereto, or otherwise.

Reserving and excepting from the foregoing water system and property the following:

1. All that part of said water system located outside the boundaries of the city of Eagle Rock and authorized to be sold to the Board of Public Service Commissioners of the city of Los Angeles under opinion and order of the California Railroad Commission issued on November 14, 1916.

2. Also certain real property situated in the county of Los Angeles, state of California, described as follows, to-wit:

Lot Twenty-nine (29) of Myers and Kulli's Annandale Heights Tract, as per map recorded in Book 9, Page 145, of Maps, in the office of the County Recorder of said Los Angeles County;

Lot Seven (7) of "Glenwood Park No. 2" in the Rancho San Rafael, as per map recorded in Book 11, Page 154, of Maps, in the office of the County Recorder of said Los Angeles County.

3. Also the following described personal property used in connection with the operation of said water system, to-wit:

All office furniture, one motorcycle, one horse, one wagon and one single harness.

It is hereby further ordered by the Railroad Commission of California that said property heretofore ordered to be transferred shall be transferred free of all encumbrances and subject to an agreement entered into between Eagle Rock Water Company and the city of Eagle Rock, said agreement being submitted as Exhibit "A" of this application.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 12th day of December, 1916.

DECISION No. 3927.

IN THE MATTER OF THE APPLICATION OF LINDSAY HOME TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO ISSUE BONDS.

Application No. 2324.

Decided December 13, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

On August 28, 1916, in Decision No. 3602, this commission authorized Lindsay Home Telephone and Telegraph Company to issue \$7,800.00 face value of bonds on the condition that the mortgage or deed of trust securing said bonds should thereafter be presented to this commission for its approval.

On December 1, 1916, Lindsay Home Telephone and Telegraph Company filed with this commission a copy of a proposed mortgage or deed of trust to Bank and Trust Company of Central California. As security for a total authorized issue of \$15,000.00 face value of first mortgage 6 per cent gold bonds, applicant proposes to mortgage all property which it now owns or may hereafter acquire. It is provided that the bonds issued thereunder shall be callable upon any interest date at 105 and accrued interest. It is further provided that bonds shall be of the denomination of \$100.00 each and shall be issued in series; Series "A" bonds, in the total amount of \$7,800.00, to be payable serially from 1919 to 1933, inclusive; Series "B" bonds, totalling \$7,200.00, to be payable in 1933. A sinking fund is provided for, payable in installments of from \$15.00 to \$50.00 per month. In case of default in interest or principal the holders of one-third in the amount of the outstanding bonds may require the trustee to take action.

After consideration of the mortgage or deed of trust submitted by applicant, it appears that the same is in proper form and may be approved; subject, however, to the terms of the following order:

FIRST SUPPLEMENTAL ORDER.

Lindsay Home Telephone and Telegraph Company having submitted to this commission for its approval a copy of a proposed mortgage or deed of trust as hereinbefore set forth, and it appearing to this commission that said mortgage or deed of trust is in proper form and should be approved,

It is hereby ordered that Lindsay Home Telephone and Telegraph Company be and it is hereby authorized to execute a mortgage or deed of trust upon its properties substantially in the form of a mortgage or deed of trust filed by applicant on December 1, 1916, and marked Exhibit "B."

The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and is an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

Dated at San Francisco, California, this 13th day of December, 1916.

DECISION No. 3928.

IN THE MATTER OF THE SUPPLEMENTAL APPLICATION OF DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF CERTAIN OF ITS BONDS.

Application No. 2555.

Decided December 13, 1916.

Applicant authorized to issue 32 of its 5 per cent sinking fund bonds of the face value of 100 pounds sterling each, such bonds to be sold at not less than 90, proceeds to reimburse treasury for money expended on additions and improvements to applicant's line.

REPORT OF THE COMMISSION.

Death Valley Railroad Company applies for authority to issue 32 more of its 822 first mortgage 5 per cent sterling sinking fund bonds each of 100 pounds sterling, more fully described in Decision No. 1330 of March 10, 1914, by which applicant was authorized to create such bonded indebtedness.

Said Decision No. 1330 and Decisions Nos. 1771 of September 1, 1914, 3296 of April 29, 1916, and 3799 of October 19, 1916, authorized applicant to issue a total of 720 of said bonds, to be sold at not less than 90 per cent of their face value, the proceeds to be used in the construction of its railroad in Inyo County, purchase of the "Ryan branch," and for additions and betterments subsequently added. (For Decisions Nos. 1330 and 1771, see Opinions and Orders of the Railroad Commission of California, Vol. 4, p. 389, and Vol. 5, p. 353.)

In connection with hearing of its application upon which Decision No. 3799 was based, applicant presented statement of investment and securities issued as follows:

Road and equipment and purchase of "Ryan branch"-----	\$372,168	18
Additions and betterments to June 30, 1916-----	32,486	14
	<hr/>	<hr/>
	\$404,654	32
Bonds, 720 sold at 90-----	\$315,576	00
Stock sold at par-----	75,000	00
	<hr/>	<hr/>
	390,576	00
Excess of cost over securities-----	\$14,078	32

Applicant now wishes to sell 32 of its said bonds at 90 per cent of their face value, producing about \$14,025.60, to reimburse its treasury on account of above advances from income.

Its road is an industrial enterprise serving the borax mines. Its bonds are being retired at the rate of 10 per cent a year under the sinking fund provisions of the deed of trust securing them. Payment is guaranteed by Borax Consolidated Company, Ltd.

ORDER.

Death Valley Railroad Company having applied to the Railroad Commission for authority to issue 32 of its first mortgage 5 per cent sterling sinking fund bonds more fully described in Decision No. 1330, the proceeds of the sale thereof to be used to reimburse applicant's treasury for betterments and improvements heretofore made by it as shown in connection with hearing of its Application No. 2555, on which Decision No. 3799 of October 19, 1916, was based, and a public hearing of this application therefore being deemed unnecessary,

It is hereby ordered by the Railroad Commission of the state of California that Death Valley Railroad Company be and it is hereby authorized to issue 32 of its said bonds more fully described in said Decision No. 1330 at 90 per cent of the face value thereof net to applicant; the proceeds thereof to be used to reimburse applicant's treasury for additions and betterments heretofore made by it out of income.

The authority hereby granted is upon the following conditions:

1. Death Valley Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to this commission setting forth the sale or sales during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted shall apply only to such bonds as shall have been issued hereunder on or before March 1, 1917.

3. Before selling any of the bonds herein authorized, Borax Consolidated Company, Ltd., shall execute a guarantee of the payment of the principal and interest of said bonds, and said guarantee shall appear upon the face of each of the bonds issued.

4. This order shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

Dated at San Francisco, California, this 13th day of December, 1916.

DECISION No. 3929.

J. F. DAVID AND NELLIE DUSOE
vs.
 FARMER'S CANAL COMPANY.

Case No. 1012.

Decided December 13, 1916.

A petition to have the Railroad Commission compel defendant irrigation company to serve water for irrigation purposes to complainants at the rate and in the same quantity as it is served to other consumers of defendant; *held*, a utility that has never held itself out as delivering water to irrigationists other than its regular consumers, with the exception of such surplus waters as it may have available from time to time, is not under obligation to serve additional consumers and the commission can not compel it to when its supply of water is so limited that such additional service would work a hardship on those consumers that have been receiving water regularly and are entitled thereto. Complaint dismissed.

Edson Abel, for Complainant.

J. M. Mannon, Jr., and *W. B. Beazley*, for Defendant.

REPORT OF THE COMMISSION.

This is a complaint brought by two adjoining land owners in Kern County, for the purpose of compelling the Farmer's Canal Company to furnish them water "in the same quantity and at the same rate and under the same conditions as (water is furnished) to other users of said canal and company."

A public hearing was held in Bakersfield December 5, 1916. It appears that complainants each own 80 acres of the S. E. $\frac{1}{4}$ of section 12, T. 31 S., R. 27 E., M. D. B. and M.; that defendant, hereinafter designated and referred to as the "Canal company," is a California corporation, engaged in the business of furnishing water for irrigation and other purposes to the owners of about 10,000 acres of land by means of a canal and lateral ditches located in Kern County near the city of Bakersfield. That defendant corporation was originally organized in 1880, in order, among other purposes, "to provide, furnish and supply water for domestic stock, agricultural, mechanical, and manufacturing purposes to the stockholders of said corporation upon their lands lying adjacent to the canals and ditches of said corporation, and any surplus water, to sell and distribute to other parties." That complainants acquired possession of their land about two years ago, and in the spring of 1915 applied to the Canal company for water.

There is some dispute as to the precise language used by defendant's secretary at that time, the latter claiming that he told complainants, if they would sign the regular applications, he would allow them to have water whenever the company had any surplus, after supplying its

regular consumers, while complainants claimed that he told them they could have water whenever there was water enough in the river. There is no question but that the Canal company at all times refused to furnish complainants water unconditionally, and always had insisted that its regular consumers, which it claims have water rights, were entitled to a distinct priority over complainants.

On the whole, even from complainants' testimony, we are inclined to believe that defendant merely offered to furnish complainants its surplus water whenever it had any. Defendant asked them to sign an application and also a stipulation to the effect that they would not claim any water rights by virtue of any water they might receive under said application. Defendant even went so far as to accept an application and a deposit from complainants for the surplus water to be furnished them. Complainants never received any water from the Canal company, however, the reason being, according to the testimony, that soon after the application was made, the water in the river suddenly fell, and defendant had no longer any surplus available.

According to the testimony of Mr. F. G. Munzer, the Canal company's secretary, the company, while originally considering that it was obligated to furnish water only to its stockholders, later furnished water to certain other farmers in the neighborhood. Before he became secretary, which was 22 years ago, the Canal company had ceased to take on any new consumers on the ground that the existing consumers, both stockholders and nonstockholders, had acquired certain water rights and that the Canal company was then serving all the land which it could adequately supply with water.

Since that time the company has consistently maintained this policy and has sold water to new consumers only when it had a surplus. The evidence further shows that complainants knew of the Canal company's attitude in this matter before they bought or contracted to buy their land.

Mr. Munzer further testified that the Canal company would treat all applicants for such surplus water upon an equal basis and in the order of the filing of their applications each season. In other words the Canal company does not recognize any priorities in the right to the use of surplus water whenever there is any. According to the testimony, however, during the last ten years, there has been surplus water during the summer only in the years 1906, 1909, 1914, 1916 and a part of 1915. In the other years all of the Canal company's water was used by its regular consumers at 75 cents per cubic foot per second for 24 hours.

From all the evidence, we find that these regular consumers of defendant who, either personally or through their predecessors in interest, have been applying the water from defendant's canal to their lands

for beneficial uses for the last twenty-two years or more are entitled to be protected in the use of this water, and that the Canal company is justified in refusing to permit any new consumer to use any of its water, except when it has a surplus over what may be needed by its regular consumers for beneficial uses upon the land heretofore served by the company.

ORDER.

A public hearing having been held in the above entitled proceeding and the case having been submitted and being now ready for decision, and it appearing for the reasons set forth in the foregoing opinion that the complaint should be dismissed,

It is hereby ordered that the complaint in the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 13th day of December, 1916.

DECISION No. 3930.

J. R. HAYS AND GEORGE HAYS

vs.

BALDWIN PARK DOMESTIC WATER COMPANY,
S. M. WALKER, PROPRIETOR.

Case No. 936.

Decided December 13, 1916.

Complainants, at present receiving service through a connection which was partially paid for by themselves, petition the commission to compel defendant to connect them with a new four-inch main recently installed, contending that the present connection is inadequate; *held*, that complainants are not receiving the service to which they are entitled and that adequate service would be rendered should they be connected to the four-inch main of defendant's installed and operated past their premises; that the cost of such connection would not be unduly burdensome and defendant is accordingly directed to install the same within thirty days.

J. R. Hays, in propria persona.

Hunsaker & Brill, by H. C. Beach, for Baldwin Park Domestic Water Company.

REPORT OF THE COMMISSION.

Adequacy of service is the main issue in this proceeding.

Complainants in this matter are the owners of lots twenty-seven and twenty-eight (27 and 28), Bertha Munger Tract, Baldwin Park, and consumers of Baldwin Park Domestic Water Company, a public utility. At present water service is obtained through a small so-called private service line, alleged to have been installed at complainants' expense,

extending from defendant's water main on Main street, Baldwin Park, to the back of the lots hereinbefore named. Complainants allege that the quality of service rendered through said small service line is poor and insufficient to meet their proper requirements; that since the installation of said small service line defendant has installed a large water main on the street fronting their property, from which adequate service can be obtained. Complainants desire that service be provided them from the main in front of their property and also request permission to remove the so-called private service line of which ownership is claimed.

Defendant in answer admits that complainants are within its service area and that it is the owner of a four-inch pipe line laid upon an undedicated street fronting complainants' property, but alleges that this four-inch line was installed for the purpose of serving only certain lots in the Bertha Munger Tract, complainants' lots not being included therein, and that said four-inch line is not capable of supplying complainants without endangering the rights of those for which it was originally contemplated. It denies that service now rendered through the private service line is inadequate or that any improvement in the quality of service can be obtained for complainants from said four-inch pipe line. Concerning ownership of the private service line, defendant denies that complainants have any right, title or interest therein, but alleges that such line was installed by it upon request of complainants under an agreement whereby Baldwin Park Domestic Water Company became the owner thereof in consideration of its paying one-third of the cost and obtaining an easement therefor.

A hearing was held on this matter in Los Angeles, April 11, 1916. The evidence shows that an oral agreement, now in controversy and relating to the small service line heretofore mentioned, was made between the complainants in this action and the Baldwin Park Domestic Water Company some considerable time prior to this commission's decision in Case No. 683, in the matter of the practice of water, gas, electric and telephone utilities requiring deposits before rendering service (Volume 8, Opinions and Orders of the Railroad Commission of California, page 372), which enunciates certain rules and regulations governing extensions of this character. Notwithstanding the fact that this commission made repeated efforts through informal proceedings to have Baldwin Park Domestic Water Company install the small service line in conformity with such rules and regulations as were afterwards formally adopted in said decision above referred to, defendant collected outright payments for at least a portion of this small service line, in accordance with the oral agreement hereinbefore mentioned. During the course of the hearing complainants offered to relinquish whatever rights they

possessed, if any, in this small service line, provided service was furnished by defendant from the large main fronting their property.

The evidence clearly establishes the obligation of Baldwin Park Domestic Water Company as a public utility to serve applicants requesting installation of connections with the four-inch pipe line hereinbefore described. While at present some ten or twelve consumers are so receiving service, the testimony indicates that it has sufficient capacity to provide service to complainants.

The testimony regarding the relative length of the service mains in controversy is conflicting. It, however, appears that complainants now receive their water through a line consisting of some 240 feet of two-inch diameter and 290 feet of one-inch diameter, and that the pipe line from which they desire service is of less length and of decidedly greater capacity.

The commission's assistant engineer, James Armstrong, testified that the pressure in the mains and the amount of water available to complainants will be greater if connection is made for their benefit with the four-inch main.

Defendant's claim that the cost of installing service connection demanded by complainants would be unreasonable and excessive was not supported by testimony of actual cost of similar installations.

After a comprehensive review of all the evidence in this proceeding, the commission finds that complainants are not receiving the service to which they are entitled and which they would receive should connection be made with the four-inch main installed by defendant and by defendant maintained and operated past complainants' premises and that the expenditure necessarily to be made by defendant in the installation of a service connection for the purpose of delivering water from this main to the property line of complainants is reasonable.

ORDER.

J. R. Hays and George Hays having made complaint to this commission that they are now receiving inadequate service from Baldwin Park Domestic Water Company through their present form of service connections, and a public hearing having been held and it appearing from the evidence that said J. R. Hays and George Hays are inadequately supplied with water from Baldwin Park Domestic Water Company through their present form of service connections, and that adequate service can be provided by said Baldwin Park Domestic Water Company from connection with said company's four-inch pipe line fronting said complainants' property,

It is hereby further ordered that Baldwin Park Domestic Water Company and it is hereby directed to install at its own expense service connections to lots twenty-seven and twenty-eight (27 and 28), Bertha

Munger Tract, Baldwin Park, owned by J. R. Hays and George Hays, from its four-inch pipe line fronting said lots.

It is hereby further ordered that Baldwin Park Domestic Water Company install and complete connections herein ordered within thirty (30) days from the date of this order.

Dated at San Francisco, California, this 13th day of December, 1916.

Decision No. 3931.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE FOUR HUNDRED AND EIGHTY-FIVE THOUSAND FIVE HUNDRED AND EIGHT SHARES OF ITS COMMON STOCK OF THE PAR VALUE OF ONE DOLLAR PER SHARE.

Application No. 2664.

Decided December 13, 1916.

Tidewater Southern Railway Company authorized to issue \$600,000.00 par value of stock to be sold at not less than 80, proceeds thereof to be used for additions and betterments to its existing line of railroad and for an extension from Hatch to Irwin City, provided, that \$125,000.00 par value of stock at present held by the president of applicant shall be impounded in a manner suitable to the commission. Such order to supersede prior authorizations of the commission in so far as such orders have not been exercised.

A protest was filed against the granting of such application by a stockholder who objected to the present management of the company's affairs. It is held that matters of management, as in the present instance, are subjects to be considered by the stockholders themselves and not by this commission.

Arthur Levinsky, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this matter Tidewater Southern Railway Company requests authority to issue 485,508 shares of its common stock of the par value of \$1.00 per share and to sell the same so as to net the company not less than 80 cents per share. The petition recites that applicant has heretofore been granted authority to issue 364,492 shares of its stock and that said order is still in force and effect. The total thus to be issued, as contemplated by applicant, amounts to 850,000 shares. It is proposed to issue 250,000 of these shares to Mr. Byron A. Bearce, president of Tidewater Southern Railway Company, in return for certain properties and upon the surrender by him of a certificate for 2,000,000 shares now held by him for voting purposes only. At the hearing Mr. Bearce requested that this portion of the application be held in abeyance and it will therefore not be determined at this time.

There will remain for consideration the balance of 600,000 shares of stock.

Applicant filed the following statement reciting the purposes for which it proposes to use the proceeds to be derived from the issue of stock:

Estimate of Cost for Proposed Extension from Hatch, Stanislaus County, to Irwin City, Merced County, Eight (8) Miles Main Line and One (1) Mile of Sidings, Nine (9) Miles Grading.

Nine miles grading at \$1,000.00	\$9,000 00
Trestling irrigation canals (280 feet)	2,800 00
45 syphons at \$100.00	4,500 00
23,940 ties	9,550 00
Laying and surfacing 9 miles at \$1,500.00	13,500 00
Rail and fastenings 9 miles at \$3,750.00	33,750 00
Fencing	1,800 00
Telephone	800 00
Rights of way	11,500 00
Overhead 9 miles at \$3,500.00	22,500 00
	<hr/>
	\$109,700 00

Moneys to be spent on Stockton-Turlock Division electrifying, Modesto to Turlock 16 miles and 3½ miles switches at \$3,500.00	\$68,250 00
Switches, sidings, Ortega cut-off, Modesto yards, Hatch yards, Turlock yards, switches, etc.	44,430 feet
Less to be taken up on Sharps' lane	24,200 feet
20,230 feet, 4 miles at \$12,000.00	48,000 00
Additional overhead from Ortega to Stockton 3 miles at \$4,000.00	12,000 00
Ortega interlocker	1,500 00
Modesto interlocker	6,000 00
Switch material for 20 switches	2,500 00
Steel for Tuolumne bridge	15,000 00
Lining up of present track	15,000 00
Notes issued	88,717 12
3 freight motors	36,000 00
1 passenger car	12,500 00
Warehouse Turlock	5,000 00
Loading sheds	10,000 00
Property Turlock	10,000 00
Property Modesto	40,000 00
	<hr/>
	370,467 12

\$480,167 12

Tidewater Southern Railway Company owns and operates a standard gauge line of railway from Stockton to Turlock and to Hatch in the San Joaquin Valley, a distance of 50 miles. In addition, eight miles have been surveyed from Hatch south to Irwin City in Merced County.

The applicant has outstanding 945,703 shares of stock of the par value of \$1.00 per share in addition to the certificate for 2,000,000 shares heretofore referred to. Of the total of 945,703 shares of stock, 30,000 shares of the par value of \$1.00 per share are preferred. The

orders of this commission heretofore issued have provided that the certificate for 2,000,000 shares shall in 1919 be returned to applicant's treasury.

Applicant reports cash on hand of \$50,000.00, and materials and supplies amounting to \$15,000.00. Its obligations consist of the following indebtedness:

Five per cent bonds due in 1942-----	\$466,500 00
Notes payable -----	88,000 00
Accounts, etc. -----	40,000 00

The total indebtedness, therefore, amounts to \$594,500.00.

On March 3, 1916, this commission issued its findings in the matter of ascertaining the value of the property of the applicant (Case No. 584). In this proceeding the commission reported the so-called "present value" of the properties of Tidewater Southern Railway Company as of June 30, 1914, as therein defined, as \$713,493.68.

At the hearing upon the application herein, Mr. Bearce testified that since that time further capital additions had been made to the properties which, he estimated, would bring the total value to \$1,128,910.00 as of October 1, 1916. No auditor's check has been made to verify these figures, but it is apparent that substantial capital additions have been made since June 30, 1914.

The applicant has submitted the following statement of assets, liabilities and earnings:

Assets.		
Road and equipment-----	1916	\$1,421,050 41
Miscellaneous physical property-----		35,859 88
Cash -----		
Loans and notes receivable-----		7,403 10
Miscellaneous accounts receivable-----		42,127 93
Materials and supplies-----		7,911 80
Other current assets-----		6,176 37
Discount on funded debt-----		74,000 81
Total assets -----		\$1,594,530 30
Liabilities.		
Capital stock -----		\$961,849 15
Premium on capital stock-----		58,826 00
Assessment on stock-----		94,998 70
Funded debt unmaturred-----		399,000 00
Loans and notes payable-----		87,980 00
Audited accounts and wages payable-----		13,296 24
Miscellaneous accounts payable-----		
Matured interest, dividends and rents unpaid-----		2,737 50
Accrued interest, dividends and rents payable-----		4,156 22
Other current liabilities-----		584 18
Tax liability -----		*1,113 06
Accrued depreciation -----		2,881 66
Other unadjusted credits-----		
Profit and loss (debit balance)-----		*30,666 29
Total liabilities -----		\$1,594,530 30

*Loss.

Income Account.		1915	1916
Railway operating revenues-----		\$85,818 07	\$79,865 02
Railway operating expenses-----		73,141 02	71,584 49
Net operating revenue-----		\$12,677 05	\$8,280 53
Taxes -----		3,191 68	5,635 65
Operating income -----		\$9,485 37	\$2,644 88
Nonoperating income -----		57 82	-----
Gross income -----		\$9,543 19	\$2,644 88
Interest on funded debt-----		\$16,502 19	\$19,009 40
Interest on unfunded debt-----		5 47	2,393 46
Miscellaneous -----		-----	79 43
Amortization of discount on funded debt-----		2,814 31	2,984 88
Total deductions from gross income -----		\$19,321 97	\$24,467 17
Deficit transferred to profit and loss-----		\$9,778 78	\$21,822 29

For the first three months of the fiscal year beginning July 1, 1916, applicant's gross earnings are reported as \$60,000.00, against \$22,000.00 for the same period of 1915.

Mr. Bearce estimates that Tidewater Southern Railway Company will earn \$150,000.00 during the fiscal year 1916-17, with a net profit of \$30,000.00 after the payment of fixed charges. He estimates that the gross receipts for the fiscal year 1917-18 will be \$300,000.00, with approximately \$100,000.00 net after the payment of fixed charges. These estimates by Mr. Bearce are based upon the unusually large shipments of beets, cantaloupes, watermelons and sweet potatoes from those sections of Stanislaus and Merced counties in which his line is now operating and proposes to tap. Mr. Bearce expects a very large development in this territory. He has made traffic connections with the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Western Pacific Railroad Company.

In another application Tidewater Southern Railway Company has petitioned for authority to abandon certain tracks near Stockton. As it has in prospect an arrangement which will admit it into Stockton over the Western Pacific Railroad Company's tracks and thus to the Western Pacific Company's terminal facilities, it is apparent that the applicant is relying upon an interchange of traffic with the Western Pacific.

In these proceedings a protest was entered by Mr. C. Mehan, a stockholder of applicant. Mr. Mehan requested that the application be denied as he did not believe it desirable, under all of the circumstances, for Tidewater Southern Railway Company to proceed with its program of construction. He complained also of the management and made allegations as to irregularities. Mr. Mehan, however, stated that he

was unable to present any facts in substantiation of his allegations. The greater part of his complaint related to matters of management which are the concern of the stockholders and which appear to be, in this instance, more properly matters for them than for this commission to determine.

The plan of the applicant is to extend its construction into Merced County to reach a rich bottom section which offers abundant traffic. It is of course desirable that this extension should be built. In this connection also, it is necessary for the applicant to acquire terminals and yards at Modesto and Turlock; to construct interlockers at crossings; to construct warehouse and terminal facilities, to purchase equipment and to electrize its line from Modesto to Turlock.

It is proposed also by applicant to use the funds to be derived from the sale of stock for the purpose of discharging its note indebtedness in the sum of \$88,717.12.

Testimony was offered to the effect that the applicant will sell its stock for cash and would not put it on sale generally to the public. In order to assure the commission that so far as he could prevent it, other stock would not be offered to the public at the same time, Mr. Bearce offered to impound for a period of three years \$120,000.00 for value of stock controlled by himself.

I believe that it is desirable that the applicant should develop its line of railway as herein contemplated, and I believe it advisable for this company to sell stock to accomplish its purpose.

In order to clarify such matters as applicant may now have before this commission, I shall recommend in this proceeding the issue of 600,000 shares of stock and shall at the same time terminate such orders as may still be in force and effect for the issue of either stock or bonds.

Accordingly, I recommend the following form of order:

ORDER.

Tidewater Southern Railway Company having applied to this commission for authority to issue stock as set forth in the foregoing opinion, and hearing having been held and it appearing to this commission that the purposes for which the stock herein authorized to be issued shall be sold, are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Tidewater Southern Railway Company be and the same is hereby authorized to issue 600,000 shares of its common stock of the par value of \$1.00 per share.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be issued for cash so as to net the applicant not less than 80 per cent of the par value thereof.

2. The proceeds from the sale of the stock herein authorized to be issued shall be used for the following purposes and not otherwise:

Estimate of Cost for Proposed Extension from Hatch, Stanislaus County, to Irwin City, Merced County, Eight (8) Miles Main Line and One (1) Mile of Sidings, Nine (9) Miles Grading.

Nine miles grading at \$1,000.00-----	\$9,000 00	
Trestling irrigation canals (280 feet)-----	2,800 00	
45 syphons at \$100.00-----	4,500 00	
23,940 ties-----	9,550 00	
Laying and surfacing 9 miles at \$1,500.00-----	13,500 00	
Rail and fastenings, 9 miles at \$3,750.00-----	33,750 00	
Fencing-----	1,800 00	
Telephone-----	800 00	
Rights of way-----	11,500 00	
Overhead, 9 miles at \$3,500 00-----	22,500 00	
		\$109,700 00

Moneys to be spent on Stockton-Turlock Division electrifying, Modesto to Turlock 16 miles and 3½ miles switches at \$3,500.00----- \$68,250 00
 Switches, sidings, Ortega cut-off,
 Modesto yards, Hatch yards,
 Turlock yards, switches, etc.---44,430 feet
 Less to be taken up on Sharps'
 lane -----24,200 feet

20,230 feet, 4 miles at \$12,000.00-----	48,000 00	
Additional overhead from Ortega to Stockton, 3 miles at \$4,000.00-----	12,000 00	
Ortega interlocker-----	1,500 00	
Modesto interlocker-----	6,000 00	
Switch material for 20 switches-----	2,500 00	
Steel for Tuolumne bridge-----	15,000 00	
Lining up of present track-----	15,000 00	
Notes issued-----	88,717 12	
3 freight motors-----	36,000 00	
1 passenger car-----	12,500 00	
Warehouse Turlock-----	5,000 00	
Loading sheds-----	10,000 00	
Property Turlock-----	10,000 00	
Property Modesto-----	40,000 00	
		370,467 12
		\$480,167 12

3. The money to be used to acquire property in Turlock and property in Modesto in the amounts of \$10,000.00 and \$40,000.00, respectively, as set forth in the list in paragraph 2 preceding, shall be so used only after applicant has submitted to this commission a detailed statement of the property thus to be acquired and this commission has, by supplemental order, approved the acquisition of such property.

4. This order shall not become effective until Byron A. Bearce shall have impounded in a manner suitable to the Railroad Commission, \$125,000.00 par value of stock of Tidewater Southern Railway Company held by him and shall have received from the Railroad Commission a supplemental order stating that this has been done.

5. The authority herein given to issue \$600,000.00 of stock shall supersede and be in lieu of such authority as may heretofore have been given by this commission to applicant to issue stock, in so far as said authority has not been exercised.

6. Tidewater Southern Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to this commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority hereby granted shall apply only to such capital stock as may have been issued on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 13th day of December, 1916.

DECISION No. 3932.

IN THE MATTER OF THE APPLICATION OF SURPRISE VALLEY
ELECTRIC LIGHT AND POWER COMPANY TO SELL CERTAIN OF
ITS COMMON CAPITAL STOCK.

Application No. 2348.

Decided December 13, 1916.

Applicant authorized to issue 160 shares of its capital stock of the par value of \$50.00 per share, such stock to be sold at not less than par; proceeds to be used to retire certain outstanding notes and for additions and improvements to its system. It also applies for permission to increase present rates 10 per cent and upon a showing that the increase asked for would provide a return of only 4 per cent upon its investment, application granted.

Harry Hawkins, for Applicant.

REPORT OF THE COMMISSION.

Applicant in this proceeding seeks authority of the commission to issue and sell one hundred and sixty (160) shares of its capital stock at the par value of fifty (50) dollars per share; also applicant asks for a 10 per cent increase in the present rates it charges for electric current.

A public hearing was held in relation to these matters at Cedarville, Modoc County, California, on September 28, 1916.

The Surprise Valley Electric Light and Power Company was incorporated on May 25, 1905, with a capitalization of twenty-five thousand (25,000) dollars, divided into five hundred (500) shares of the par value of fifty (50) dollars each; \$5,550.00 par value of said stock was subscribed for and 50 per cent of the subscriptions collected.

In the year 1906 the Alturas Electric Light and Power Company proposed to the Surprise Valley Electric Light and Power Company that the latter company should build a transmission line to the power house of the Alturas company on Pine Creek, in Modoc County. This proposition was accepted and a contract was drawn between the two companies, whereby the Alturas Electric Light and Power Company was to sell electric current to the Surprise Valley Electric Light and Power Company. Thereafter the Surprise Valley Electric Light and Power Company made demand upon the stockholders for 40 per cent of their stock subscriptions and actual construction work was commenced in June, 1906. As work progressed the remaining portion of the stock subscriptions were called in and as the stock became fully paid for shares were issued by the company. Before the transmission line and the distribution system of the Surprise Valley Electric Light and Power Company were finally completed the company found it necessary to borrow money to complete the plant, certain of the notes given at that time being outstanding. It is for the purpose of paying off these notes and providing necessary funds for the metering of the system that application is made at this time for the sale of stock.

The following is a list of the notes outstanding:

Payee	Principal and Interest due	Date
Surprise Valley Bank.....	\$1,149 44	Aug. 20, 1915
H. S. Hawkins.....	750 00	Jan. 15, 1914
R. H. Stanley.....		
F. L. Roberts.....		
Tom Sizer.....		
W. E. Hill.....		
Harvey Lester.....	2,000 00	Oct. 4, 1914

It developed at the hearing that these notes have been renewed from time to time without any authority from the commission. These renewals were made without such authority, not from a desire on behalf of the corporation to evade the statute, but arose from the fact that the company is an outgrowth of the public spirit of local citizens who are trying to supply the convenience of electric light and power not so much for profit as for the benefit to the community. In their economic management of the affairs of the company they have been without counsel and were unaware that the permission of this commission was necessary for a renewal of any outstanding notes.

Mr. Charles Grunsky, one of the engineers of the commission's gas and electric department, presented at the hearing certain data as to the valuation of the properties of the company and an estimate of yearly revenue and operating expenses, which are as follows:

Historical Reproduction Cost Surprise Valley Electric Light and Power Company.

C-5	Land devoted to electric operations.....	\$34 00
C-14	Poles and fixtures	3,914 90
C-15	Overhead system	5,553 00
C-17	Substation buildings and general structures.....	150 00
C-18	Substation equipment	1,168 00
C-19	Miscellaneous equipment	100 00
C-20	Line transformers and devices.....	861 30
C-21	Electric services	374 50
C-22	Meters	1,232 15
C-23	Municipal street lighting system.....	46 00
C-29	Telephone lines	1,195 20
Subtotal		\$14,629 05
General overhead		500 00
Total historical reproduction cost.....		\$15,129 05
Construction capital:		
Installation of cross-arms and guys.....		750 00
Installation of additional meters		200 00
Grand total		\$16,079 05

The item of \$750.00 under Construction Capital is an estimate of that portion of the expenditures which will be necessary to reconstruct the pole lines in accordance with the requirements of the state law, which can be charged to "Additions and Betterments." The second item of \$200.00 is an estimate of the expenditures for additional meters which will be installed.

Estimated Yearly Revenue Under Present Rates, Surprise Valley Electric Light and Power Company.

Commercial and residence lighting, metered.....	\$2,715 00
Commercial and residence lighting, flat rate.....	180 00
Commercial power	575 00
Street lighting	530 00
Total estimated revenue.....	\$4,000 00

Estimated Normal Year's Operating Expense, Surprise Valley Electric Light and Power Company.

Production expense and repairs to capital.....	\$2,050 00
Transmission expense and repairs to capital.....	100 00
Distribution expense and repairs to capital.....	100 00
Commercial department, labor, supplies and expenses.....	300 00
Salaries and expenses of general officers.....	200 00
Miscellaneous general expenses.....	100 00
Taxes (5½ per cent of \$4,000).....	210 00
Depreciation (4 per cent of \$16,079.05).....	643 00
Total normal year's operating expense.....	\$3,703 00

A 10 per cent increase in the present revenue of the corporation would result in an income of \$4,400.00. The estimated normal operating expenses show the cost of operation to be \$3,703.00, which, if allowance be made for the additional taxes on the increased revenue of the company, will amount to \$3,724.00, leaving a net income of \$676.00, or a return of practically 4 per cent on the capital invested.

Certain local capitalists and public-spirited citizens have subscribed for the full amount of stock sought to be issued and testified at the hearing that they would be thoroughly satisfied with rates which would bring "savings bank interest" upon their investment.

Under the circumstances we believe that applicant should be allowed to issue the stock as it desires, and that it is entitled to the increase sought in its rates.

After a careful analysis of the consumption of electric current at Cedarville, the rates hereinafter set forth will, we believe, produce the 10 per cent increase in revenue sought by applicant.

ORDER.

Surprise Valley Electric Light and Power Company, a corporation, having applied to this commission for authority to issue and sell one hundred and sixty (160) shares of its capital stock, and for an order of this commission for an increase in the rates charged by said corporation for electric current, and a public hearing having been held in relation to said matters, and the matter having been submitted and now being ready for decision, the Railroad Commission hereby finds as a fact that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said stock are not reasonably chargeable in whole or in part to operating expenses or to income; and the Railroad Commission hereby further finds as a fact that the rates charged by Surprise Valley Electric Light and Power Company for electric current in Cedarville, California, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are fair and reasonable.

Basing its order on the foregoing findings of fact, and on the further findings of fact contained in the opinion preceding this order,

It is hereby ordered that Surprise Valley Electric Light and Power Company, a corporation, be and it is hereby granted authority to issue one hundred and sixty (160) shares of its capital stock, of the par value of fifty (50) dollars per share.

It is hereby further ordered that Surprise Valley Electric Light and Power Company establish and file with this commission, within twenty (20) days from the date of this order, and thereafter charge and collect

for electric service supplied by it in the city of Cedarville and vicinity the following rates:

Residence and Commercial Lighting.

Metered Service.

First 20 kilowatt hours per month.....13 cents per kilowatt hour
 Next 40 kilowatt hours per month.....10 cents per kilowatt hour
 Over 60 kilowatt hours per month.....5 cents per kilowatt hour
 Minimum monthly charge: \$1.00 per meter.

Street Lighting.

Metered Service.

5 cents per kilowatt hour.

General Power Rates.

Metered Service.

First 100 kilowatt hours per month.....6 cents per kilowatt hour
 Second 100 kilowatt hours per month.....5 cents per kilowatt hour
 Over 200 kilowatt hours per month.....4 cents per kilowatt hour
 Minimum monthly charge: \$1.00 per meter.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be issued at a price that shall yield applicant a price of not less than fifty (50) dollars per share.

2. The proceeds from the sale of the stock herein authorized to be issued shall be used for the following purposes, and not otherwise:

(a) To repay the following promissory notes:

Payee	Principal and interest due
Surprise Valley Bank.....	\$4,149 41
H. S. Hawkins.....	750 00
R. H. Stanley.....	
F. L. Roberts.....	
Tom Sizer.....	
W. E. Hill.....	2,000 00
Harvey Lester.....	

(b) Installation of cross-arms and guys, in order to conform with chapter No. 499 of the laws of 1911.

(c) The installation of meters.

3. The Surprise Valley Electric Light and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the first day of each month applicant shall make verified report to the commission, stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and

application of such moneys, all in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this 13th day of December, 1916.

Decision No. 3933, grade crossing; not printed. See end of volume.

DECISION No. 3934.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE COMPANY OF COVINA FOR A REVIEW AND MODIFICATION OF CONTRACTS WITH TOLL COMPANIES AND FOR AN ORDER GIVING RELIEF FROM BURDENS IMPOSED THEREIN AND FOR PROPER COMPENSATION FOR SERVICE RENDERED TO SAID TOLL COMPANIES.

Application No. 2642.

Decided December 14, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Home Telephone Company of Covina, applicant in the above-entitled proceeding, having made written request that the above-entitled application be dismissed,

It is hereby ordered that the same be and it is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 14th day of December, 1916.

DECISION No. 3935.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AUTHORITY TO PLEDGE AS COLLATERAL SECURITY, ITS GENERAL LIEN MORTGAGE BONDS.

Application No. 2666.

Decided December 16, 1916.

Applicant authorized to issue and pledge bonds of the face value of \$10,000.00 to secure a note in the principal sum of \$5,000.00, proceeds of the note to be used as security for a certified check deposited pending the appeal of a damage suit.

A. L. Whittle, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application by San Francisco-Oakland Terminal Railways for authority to pledge \$10,000.00 face value of its general lien mortgage bonds with the Central National Bank of Oakland as collateral

security for a 6 per cent demand note in the principal sum of \$5,000.00. Said note is to be the basis for the execution and delivery to applicant by Central National Bank of Oakland of a certified check in the sum of \$5,000.00, which applicant intends to deliver to Maryland Casualty Company as collateral security for the execution and delivery to San Francisco-Oakland Terminal Railways by Maryland Casualty Company of an undertaking and stay bond on appeal, in the case of Luke Johnson, a minor, by his guardian, Holmes Johnson, plaintiff, versus San Francisco-Oakland Terminal Railways, a corporation, defendant. A judgment in this case was recently entered in the Superior Court of Alameda County against San Francisco-Oakland Terminal Railways for the sum of \$4,000.00. Applicant now desires to appeal this case to the Supreme Court of the state of California and finds it necessary to make arrangements for the execution of an undertaking and stay bond on appeal as hereinbefore set forth.

In Decision No. 1604, dated June 23, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1290), this commission authorized San Francisco-Oakland Terminal Railways to issue \$1,600,000.00 of general lien bonds as collateral security for an issue of notes in the sum of \$650,000.00.

At the hearing applicant filed a statement showing that as of December 14, 1916, it had outstanding \$757,000.00 face value of bonds pledged as collateral security for \$499,089.64 face value of notes. Of the remaining bonds, \$177,000.00 face value are held in applicant's treasury and \$66,000.00 are held by Mercantile Trust Company, trustee.

Applicant reports that the \$10,000.00 face value of bonds which it desires to pledge at the present time are bonds which have been returned to it upon partial satisfaction of the obligations for which said bonds were originally pledged.

The petition in this matter states that the general lien mortgage bonds which applicant desires to pledge will be deposited with Central National Bank of Oakland under a collateral pledge agreement providing that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the promissory note in the sum of \$5,000.00, and only after said Central National Bank shall have exercised its banker's lien on money on deposit in said bank to the credit of San Francisco-Oakland Terminal Railways shall such portion of said general lien mortgage bonds and only such portion be offered for sale as may be necessary to pay said promissory note, together with accrued interest thereon, and that in the event said promissory note and interest thereon shall be paid said general lien mortgage bonds shall be returned to San Francisco-Oakland Terminal Railways. Under these circumstances I believe this commission may safely authorize San Francisco-

Oakland Terminal Railways to pledge its general lien mortgage bonds as requested in the application herein.

I accordingly submit the following form of order:

ORDER.

San Francisco-Oakland Terminal Railways having applied to this commission for authority to pledge \$10,000.00 face value of its general lien mortgage bonds with Central National Bank of Oakland as collateral security for a 6 per cent demand note in the principal sum of \$5,000.00 as hereinbefore set forth, and a hearing having been held, and it appearing to this commission that applicant's request is reasonable and should be granted and that the purposes for which it is proposed to pledge said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that San Francisco-Oakland Terminal Railways be and it is hereby authorized to pledge \$10,000.00 face value of its general lien mortgage bonds with Central National Bank of Oakland as collateral security for a promissory note in the principal sum of \$5,000.00, payable upon demand and bearing interest at 6 per cent per annum, the proceeds of said note to be used in securing a certified check to be deposited with Maryland Casualty Company as collateral security for the execution and delivery of an undertaking and stay bond on appeal in the case of Luke Johnson, a minor, by his guardian, Holmes Johnson, plaintiff, versus San Francisco-Oakland Terminal Railways, a corporation, defendant.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The general lien mortgage bonds herein authorized to be pledged shall only be pledged under a collateral pledge agreement providing that only in the event that San Francisco-Oakland Terminal Railways shall fail to pay the promissory note in the sum of \$5,000.00, and only after said Central National Bank shall have exercised its banker's lien on money on deposit in said bank to the credit of San Francisco-Oakland Terminal Railways shall such portion of said general lien mortgage bonds and only such portion be offered for sale as may be necessary to pay said promissory note, together with accrued interest thereon, and that in the event said promissory note and interest thereon shall be paid said general lien mortgage bonds shall be returned to San Francisco-Oakland Terminal Railways.

2. San Francisco-Oakland Terminal Railways shall keep separate, true and accurate accounts relative to the pledge of the bonds herein authorized to be pledged; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission

relative to the pledge of said bonds in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein given shall apply only to such bonds as shall have been pledged on or before March 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 16th day of December, 1916.

Decision No. 3936, grade crossing; not printed. See end of volume.

DECISION No. 3937.

IN THE MATTER OF THE APPLICATION OF THE POMONA VALLEY TELEPHONE AND TELEGRAPH UNION FOR AN ORDER MODIFYING THE TERMS AND CONDITIONS OF CERTAIN TOLL CONTRACTS BETWEEN SAID COMPANY AND THE UNITED STATES LONG DISTANCE TELEPHONE AND TELEGRAPH COMPANY AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Application No. 2625.

Decided December 19, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the proceeding entitled as above having, on December 12, 1916, requested dismissal of this proceeding,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 19th day of December, 1916.

Decision No. 3938, grade crossing; not printed. See end of volume.

DECISION No. 3939.

IN THE MATTER OF THE APPLICATION OF J. C. DANNER TO SELL AND OF G. W. BANDY TO PURCHASE A TELEPHONE SYSTEM.

Application No. 2597.

Decided December 20, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

G. W. Bandy having filed stipulation as required by the order in Decision No. 3914, of December 6th, to the effect that he, his heirs, rep-

representatives and assigns will never claim in any proceeding before the Railroad Commission or any court or other public authority any value for any franchise or permit to use the roads, highways or public places other than those which may hereafter be acquired and then only the actual cost thereof, and it appearing to this commission that said stipulation is in satisfactory form for the purposes of this proceeding, the Railroad Commission of the state of California hereby finds as a fact that said G. W. Bandy has complied with Condition No. 5 of the said order in its Decision No. 3914 of December 6, 1916.

Dated at San Francisco, California, this 20th day of December, 1916.

DECISION No. 3940.

IN THE MATTER OF THE APPLICATION OF H. O. KOHLER AND
A. SCHWARTZ FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY AND FOR THE ESTABLISHMENT OF RATES.

Application No. 2578.

Decided December 20, 1916.

Applicants granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the county of Nevada, authorizing the construction and operation of an electric and water distributing system in and adjacent to the town of Washington.

It appearing that a full return on applicant's properties would necessitate an exorbitant rate to the few prospective consumers, the following schedules established: Water, \$1.00 per month for residence and stores; electric, commercial and residence, first light, 75 cents; second, 50 cents; over two, 25 cents per month each.

F. T. Nilon, for Applicants.

REPORT OF THE COMMISSION.

The applicants herein seek the order of this commission that present and future public convenience and necessity require the exercise by them of certain franchise rights granted by the board of supervisors of Nevada County on the fourth day of October, 1916, which said franchise grants to the applicants herein the authority to maintain and operate a power plant and water system in and about the town of Washington, Nevada County.

A public hearing in this proceeding was held at Washington, Nevada County, on November 17, 1916. The evidence was presented in behalf of applicants and prospective consumers.

The Pacific Gas and Electric Company serves the territory contiguous to the town of Washington and was given notice of the application made herein and of the hearing thereon. No appearance, however, was made by that corporation, and at the hearing the attorney for applicants

made the statement that Pacific Gas and Electric Company offered no protest to the application herein.

In addition to the application for a declaration of this commission that public necessity and convenience require the exercise of the franchise rights hereinabove enumerated, applicants also seek to have this commission fix a schedule of rates to be charged for the service to be rendered by them, both as an electric and a water utility.

The cost of the system, as presented by applicants, amounted to \$4,725.00. In addition to this amount, further expenditures will have to be made for an electric distribution line, the estimated cost of which will amount to \$550.00. No estimate of reproduction cost was presented, but according to testimony it would be greater than actual cost to the present owners, since they made use of an abandoned mining ditch, which was cleaned out and reconstructed at a comparatively small outlay.

Applicants testified that the probable cost of operation and maintenance of ditch and forebay would amount to \$392.00 per year. Adding \$300.00, the cost of operation of the plant, as suggested by Milo H. Brinkley, one of the commission's engineers, and \$50.00 for repairs to plant, would give a total of \$742.00 per year, which amount we believe a reasonable sum allowable to applicants for maintenance and operation of the system.

No estimate of annual depreciation was presented at the hearing, but, according to the calculations of the commission's engineers by the straightline method, it appears that \$211.00 per year is a reasonable amount to allow for annual depreciation. Taxes have been estimated at \$50.00 per year.

It is probable that fifteen consumers of water and light will be the maximum number served at the present time. This was testified to by applicants, who recognized the fact that rates sufficient to pay operating expenses, depreciation and interest on the investment would be prohibitive to consumers. Under the circumstances, they only desired a rate which would attract consumers and at the same time give a maximum amount of revenue. The system was built with the expectation that returns would not be compensatory but on account of the property interests which the applicants have in the town. The desire appears to be to hold the present population, make the community more attractive and take a chance on an increase in the number of consumers through its growth.

We believe that the rates as set out in the order accompanying this opinion are as high as the consumers should be required to pay. It is our opinion, judging from the evidence in this case, that greater revenue through higher rates would be uncertain on account of the probability that some consumers could not afford to take service with such rates in effect. These rates will yield a gross revenue which will compensate

for operating expenses, annual depreciation and taxes as set out above, amounting to a total of \$1,003.00 per year. For returns in excess thereof sufficient for interest on investment, the applicants must necessarily be dependent on growth of business.

ORDER.

II. O. Kohler and A. Schwartz having applied to the Railroad Commission for a certificate that public convenience and necessity require the exercise by them of the franchise rights granted to them by the board of supervisors of the county of Nevada, state of California, to operate and maintain a power plant and water system in and about the town of Washington, Nevada County, California, and to sell power for lighting purposes and water for irrigation, fire and domestic purposes in and about the same locality, and a public hearing having been held thereon,

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by II. O. Kohler and A. Schwartz, a copartnership, of the rights and privileges conferred by the order granting permit to said II. O. Kohler and A. Schwartz, a copartnership, adopted at the regular session for the month of October, 1916, of the board of supervisors of Nevada County, California, provided that the said II. O. Kohler and A. Schwartz, a copartnership, shall first have filed with the Railroad Commission a stipulation declaring that the said II. O. Kohler and A. Schwartz, a copartnership, their successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights or privileges in excess of the actual cost to the said II. O. Kohler and A. Schwartz, a copartnership, of acquiring said rights and privileges, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

The Railroad Commission hereby finds as a fact that the rates hereinafter set forth for water and electric energy are just and reasonable.

It is hereby ordered that II. O. Kohler and A. Schwartz, a copartnership, from and after the effective date of this order, as hereinafter provided, charge and collect for water and electric energy sold by them in the town of Washington the following rates:

Water Service.

Monthly Flat Rates.

1. Residences, butcher shops and stores.....	\$1 00
2. Saloons	2 50
3. Livery stables and feed yards, per average number of stock fed, each.....	20
Per average number of vehicles, each.....	20
4. Private barns, per animal.....	20
5. Bathtubs	20
6. Lawns, shrubbery and gardens during months of irrigation, per 100 square feet	02

Lighting Service.*Monthly Flat Rates.*

Commercial and residence.

First light ----- \$0 75 per month

Second light ----- 50 per month

All over two lights ----- 25 per month each

Hotel.

Lights in rooms ----- \$0 10 per month each

All other lights same as commercial rate.

Public hall or lodge room.

Each light per meeting ----- \$0 05

Above rates figured on a 40-watt lamp basis.

It is further ordered that H. O. Kohler and A. Schwartz, a copartnership, shall file with the Railroad Commission, within twenty (20) days from the effective date of this order, as hereinafter provided, a schedule of rates as hereinbefore set forth, and that the rates herein established shall be effective fifteen (15) days after the Railroad Commission shall have made and filed a supplemental order declaring that the stipulation hereinabove required by the said H. O. Kohler and A. Schwartz, a copartnership, to be filed has been filed with the Railroad Commission, in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 20th day of December, 1916.

DECISION No. 3941.

**IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES
GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE BONDS.**

Application No. 2542.

Decided December 20, 1916.

Final authorization granted permitting the issuance by applicant of \$36,000.00 face value of bonds, being part of an issue of \$285,000.00, heretofore authorized, such bonds to be sold at not less than 92½, proceeds to be expended for additions and betterments.

*Leroy M. Edwards of Hunsaker & Britt and Leroy M. Edwards, for
Applicant.*

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

Whereas by Decision No. 3748, dated October 2, 1916, this commission authorized Southern Counties Gas Company of California, to issue \$370,000.00 face value of its first mortgage 5½ per cent twenty-year bonds; and

Whereas said Decision No. 3748 provided that \$85,000.00 of said bonds might be issued forthwith, and that the balance of \$285,000.00 of said bonds should be issued only upon supplemental orders from this commission for the purpose of providing funds to pay 80 per cent of the cost of applicant's proposed improvements from August 31, 1916, to July 31, 1917; and

Whereas by Decision No. 3832, dated November 2, 1916, applicant was authorized to issue \$37,000.00 face value of said \$285,000.00 to pay for 80 per cent of the expenditures for improvements and acquisition of property as set forth in said Decision No. 3832; and

Whereas applicant has satisfied the earning requirements of its deed of trust in that its net earnings for the twelve months ending October 31, 1916, exceed one and one-half times the annual interest on bonds outstanding, plus the interest on the bonds proposed to be issued; and

Whereas applicant asks authority to use the proceeds obtained from the sale of the bonds to pay in part the notes and accounts payable, set forth in Exhibits 1 and 2 attached to the second supplemental application, the entire amount represented by notes and accounts payable, having been expended according to the testimony in this proceeding for proper capital purposes; and it appearing that the bonds which applicant proposes to issue are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to issue \$36,000.00 face value of its first mortgage 5½ per cent 20-year bonds, said bonds being a part of the aforesaid \$285,000.00 face value of bonds, to which reference is made in Decision No. 3748, dated October 2, 1916.

The authority herein granted to issue said bonds is granted upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall net applicant not less than 92½ per cent of their face value plus accrued interest thereon.

2. The proceeds derived from the sale of said \$36,000.00 face value of bonds shall be used to reimburse applicant for expenditures for additions and betterments, the moneys to be applied upon applicant's notes and accounts payable as listed with this commission in Exhibits 1 and 2 filed in this proceeding on December 16, 1916.

3. Southern Counties Gas Company of California shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or

sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

5. The bonds herein authorized to be issued, shall be issued on or before June 30, 1917.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the state of California, in the above entitled proceeding.

Dated at San Francisco, California, this 20th day of December, 1916.

DECISION No. 3942.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES
PUBLIC SERVICE CORPORATION FOR AUTHORITY TO RENEW
CERTAIN PROMISSORY NOTES.

Application No. 2654.

Decided December 20, 1916.

Applicant authorized to renew, for a period of not to exceed eighteen months, six certain promissory notes of an aggregate face value of \$12,427.15.

A. E. Peat, for Applicant.

REPORT OF THE COMMISSION.

Midland Counties Public Service Corporation applies for an order authorizing the issue of six notes in the total principal sum of \$12,427.15, for the purpose of renewing the six notes described in the order herein.

It appears from the evidence that the proceeds of the notes to be renewed were used for the construction, completion or extension of its facilities, or in renewal of notes issued for such purposes.

ORDER.

Midland Counties Public Service Corporation having applied for an order authorizing the issue of six (6) promissory notes in renewal of the notes hereinafter set forth, and a public hearing having been held thereon, and the commission finding that said notes, or the proceeds thereof, were used for purposes not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted,

It is hereby ordered that Midland Counties Public Service Corporation be and it is hereby authorized to issue its promissory notes for such periods as applicant may deem advisable from time to time, but not exceeding in the aggregate eighteen (18) months from January 1, 1917, in amounts and at rates of interest not exceeding those pertaining to each of said present notes, respectively, and payable to the same payees in renewal of the following notes:

Name	Rate (per cent)	Amount
J. A. Roebling's Sons Co.....	6	\$953 01
Western Electric Co.....	6	1,608 07
Kelman Electric and Manufacturing Co.....	6	1,261 10
Westinghouse Electric and Manufacturing Co.....	6	3,104 97
First National Bank, Santa Maria.....	7	1,500 00
Union National Bank, San Luis Obispo	7	4,000 00

The authority herein granted is upon the following conditions, and not otherwise, to wit:

1. Midland Counties Public Service Corporation shall issue said notes so as to net not less than the face value thereof.

2. Midland Counties Public Service Corporation shall report to the Railroad Commission within ten days after the issue of the respective notes hereby authorized the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds, all in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. Midland Counties Public Service Corporation is hereby authorized during the period of one year from the date of this order to issue further notes in renewal of those herein authorized, on the same terms, provided that the combined terms of the notes hereby authorized and those issued in renewal thereof, respectively, shall not extend beyond July 1, 1918.

4. This order shall not become effective until Midland Counties Public Service Corporation has paid the fee specified in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 20th day of December, 1916.

DECISION No. 3943.

IN THE MATTER OF THE APPLICATION OF THE PLACERVILLE GOLD MINING COMPANY FOR AN ORDER AUTHORIZING THE SALE OF CERTAIN PROPERTY TO WESTERN STATES GAS AND ELECTRIC COMPANY AND WESTERN STATES GAS AND ELECTRIC COMPANY TO PURCHASE SAID PROPERTY.

Application No. 2657.

Decided December 21, 1916.

Placerville company authorized to transfer its water system to the Western company for a consideration of \$108,750.00, together with back taxes amounting to approximately \$4,000.00, the Western company to assume all obligations for service at present resting against the present owners of the system.

Allen L. Chickering, of Chickering & Gregory, for Western States Gas and Electric Company.

Derlin & Derlin, for Placerville Gold Mining Company.

REPORT OF THE COMMISSION.

This is an application by Placerville Gold Mining Company for authority to sell, and by Western States Gas and Electric Company for authority to purchase, a certain water system in the counties of El Dorado and Amador, conducting water from the south fork of the American River to Placerville and surrounding territory, consisting of a number of lakes, reservoirs, and approximately 200 miles of canals, flumes and ditches, together with the buildings and other property used in connection with the operation of said plant, all of which property is more particularly described in the order following this opinion.

A public hearing was held in San Francisco, December 16, 1916.

The predecessors in interest of Placerville Gold Mining Company, and later that company itself, have been for many years the owners and operators of the system above referred to, and have been supplying water for irrigation and domestic use as well as for mining purposes. During the dry season Placerville Gold Mining Company has also been supplying from 1,000 to 1,500 miner's inches of water to Western States Gas and Electric Company for the purpose of generating electricity. The system was constructed a great many years ago in order to furnish water to various mines, principally for the purpose of hydraulic mining; these mines have not been operating for a number of years, and, according to the testimony of Mr. Ray C. Beal, who was manager of the system for nine years, applicant's operating expenses in eight of these nine years exceeded its income—usually by several thousand dollars.

The Western States Gas and Electric Company, for some years past, has had, on the south fork of the American River, near the city of

Placerville a hydroelectric development, consisting of a generating station operated in connection with ditches, flumes and canals, conveying water from the upper watershed of the south fork of the American River to the generating station, and expects to develop and operate the new property in conjunction with its present system.

Placerville Gold Mining Company now desires to sell all of its water system to Western States Gas and Electric Company and to retire from business as a distributor of water, and Western States Gas and Electric Company has agreed to buy said property, subject to the approval of this commission, for the sum of \$108,750.00, in addition to accrued taxes on said property, amounting to approximately \$4,000.00.

Mr. J. W. Link, civil and hydraulic engineer of H. M. Byllesby & Co., of Chicago, submitted an estimate of the reproduction cost of the properties at \$799,880.80, and the reproduction cost less depreciation at \$666,472.20.

While not passing upon this, or any other valuation of the property, there appears to us to be no question but that the original cost of the system, less depreciation, is far in excess of the proposed cost to the Western States Gas and Electric Company; but as this system was built for mining purposes, to which it is no longer adaptable, there would naturally be a serious question as to how far the system's production cost would affect its value for rate making or other purposes.

There are certain other substantial interests which it will be necessary for the Western States Gas and Electric Company to purchase in order to give it an undisputed title to all the property comprised in the system, which will increase the total cost of the system to the purchaser to approximately \$190,000.00. The Placerville Gold Mining Company now has about 300 agricultural consumers, all of whose rights will, of course, have to be respected by the purchaser.

Under all the circumstances of this case we are of the opinion that the application should be granted.

ORDER.

Placerville Gold Mining Company having applied to this commission for authority to sell to Western States Gas and Electric Company its water system hereinafter more particularly described, and Western States Gas and Electric Company having joined in this application, and a public hearing having been held, and it appearing to this commission for the reasons set forth in the foregoing opinion that the application should be granted,

It is hereby ordered that Placerville Gold Mining Company be and the same is hereby authorized to sell to Western States Gas and Electric Company, for the sum of \$108,750.00 in addition to the payment by the last-mentioned company of accrued taxes (amounting to approximately

\$4,000.00), all the real or personal property described in the appendix hereto, marked "Exhibit A," and hereby incorporated into and made a part of this opinion and order.

The authority herein granted is granted subject to the condition that the purchase price for the property herein authorized be transferred, and the action of this commission in authorizing the transfer shall not be binding upon this commission or any other rate-fixing body, as affecting the valuation of said property for rate-fixing purposes, or otherwise.

Dated at San Francisco, California, this 21st day of December, 1916.

"EXHIBIT A."

All that property mortgaged by C. N. Beal to El Dorado Water and Deep Gravel Mining Company, a corporation, by mortgage recorded on June 15, 1907, at 25 minutes past 12 o'clock p.m. in Book I of Mortgages at page 106 et seq., El Dorado County Records, in the office of the County Recorder of the County of El Dorado, and recorded on the 22nd day of July, 1907, at 30 minutes past 9 o'clock a.m. of that day in Volume 1 of Mortgages at page 536 et seq., in the office of the County Recorder of the County of Amador, Amador County Records; said mortgage bearing date June 15, 1907, and made, executed and acknowledged by said C. N. Beal on said June 15, 1907, and said property being all the real and personal property of every name, kind, nature and description situate, lying and being partly in the County of El Dorado and partly in the County of Amador, in the State of California, constituting and composing the Canal and Ditch property, Water Works and Water System called or known as the El Dorado Water and Deep Gravel Mining Company's Canal and Water System, including among others all the following described real and personal property, to-wit:

First: That certain canal or ditch called or known as the Main Canal or Main Trunk Canal, more particularly described as follows, to-wit: Being the canal constructed by El Dorado Water and Deep Gravel Mining Company about the year 1873, commencing at the point of junction with, or intake from, South Fork of American River near Cedar Rock, in section 29, of township 11 north of range 15 east, and extending thence through said section 29 and through sections 30 and 31 of township 11 north, range 15 east; sections 36, 35, 26, 27, 34, 28, 33, 32, 31, and 30 of township 11 north, range 14 east; sections 25, 36, 35, 34, 33, 32, 29, 30, and 31 of township 11 north, range 13 east; sections 1 and 2 of township 10 north, range 13 east; sections 25, 36, and 35 of township 11 north, range 12 east; sections 2, 3, 4, 9, 8, and 7 of township 10 north, range 12 east, and sections 1, 12, 2 and 11 of township 10 north, range 11 east, M. D. B. & M., to "The Falls" being a point in said section 11, township 10 north, range 11 east about one-quarter mile northeasterly from the village of Smith's Flat.

Second: That certain canal or ditch and flumes called or known as the South Fork Canal, more particularly described as follows, to-wit: Commencing at the point or junction with, or intake from, South Fork of American River in section 29 of township 11 north of range 13 east, and extending thence through said section 29 and through sections 30 and 19 of township 11 north, range 13 east, sections 24, 23, 22, 21, 20, 19, 30 and 31, of township 11 north, range 12 east, and sections 36, 25, 26, 27, 34, 33 and 32 of township 11 north, range 11 east, M. D. M., to the reservoir called "Nigger Hill Reservoir," located on Reservoir Hill in said section 32, township 11 north, range 11 east, thence through section 33 of township 11 north of range 11 east, and through sections 3, 10, 11, 15, 16, 17, and 18 of township 10 north, range 11 east, M. D. M. to a point on said section 18, being the Placerville City Reservoir.

Third: That certain canal or ditch and flumes called or known as the Iowa Canal, more particularly described as follows, to-wit: Being the canal constructed about the year 1859, commencing at the point of junction with or intake from Iowa Canon (a tributary to South Fork of American River) in section 33 of township 11 north, range 12 east; and extending thence through said section 33 and through sections 32, 29, 30 and 31 of township 11 north, range 12 east, sections 5 and 6 of township 10 north, range 12 east, and sections 1, 12, 2, 11, 10 and 3 of township 10 north, range 11 east, M. D. M., and through sections 33 and 32 of township 11 north, range 11 east, M. D. M., to the reservoir called "Nigger Hill Reservoir," located on Reservoir Hill in said section 32 of township 11 north, range 11 east.

Fourth: That certain canal or ditch and flumes called or known as the South Fork Canal Extension, and also known as the El Dorado Water and Deep Gravel Mining Company's Missouri Flat Ditch, more particularly described as follows, to-wit: Commencing at a point in section 18 of township 10 north of range 11 east, known as the Placerville City Reservoir, and extending through sections 20 and 19 of township 10 north, range 11 east, and sections 24, 14, 23 and 26 of township 10 north, range 10 east, M. D. B. & M. to a point near the village of El Dorado, known as the El Dorado Reservoir; thence through sections 27 and 28 of township 10 north range 10 east, to the westerly terminus of said ditch.

Fifth: That certain canal or ditch and flumes called or known as the Webber Canal, more particularly described as follows, to-wit: Commencing at the point of junction with or intake from Webber Creek, in section 16 of township 10 north of range 12 east, and extending thence through said section 16 and through sections 17 and 18 of township 10 north, range 12 east, sections 13, 12, 11, 15, 16, 17 and 18 of township 10 north, range 10 east, to a point in said section 18, township 11 north, range 11 east, known as the Webber Reservoir.

Sixth: That certain canal or ditch and flumes called or known as the Gold Hill Canal, more particularly described as follows, to-wit: Commencing at the point of junction with or intake from Hangtown Creek, in Placerville, in section 7, of township 10 north of range 11 east, opposite Southern Pacific Depot and Morey's Foundry, and extending thence through said section 7, and through sections 1 and 2 of township 10 north, range 10 east, and sections 35, 34, 33, 32, and 31 of township 11 north, range 10 east, M. D. M. to a point near the town or village of Gold Hill.

Seventh: That certain canal or ditch and flumes called or known as the Foster Canal, more particularly described as follows, to-wit: Being the canal constructed about the year 1852, commencing at the point of junction with or intake from Hangtown Creek, in section 10, of township 10 north of range 11 east, and extending thence through said section 10 and through sections 9 and 8 of the said township and range to the County Road near the easterly line of the City of Placerville.

Eighth: That certain canal or ditch and flumes called or known as the Texas Hill ditch, more particularly described as follows, to-wit: Commencing at junction with South Fork Canal (intake) in section 16 of township 10 north of range 11 east, where said canal crosses Webber Canal, and extending thence through sections 16, 21, and 20 of the said township and range, to a point on or near the Henrietta Quartz Mine.

Ninth: That certain canal or ditch and flumes called or known as the Poverty Point Ditch, more particularly described as follows, to-wit: Commencing at Nigger Hill Reservoir, in section 32 of township 11 north of range 11 east, and extending thence through said section 32, and through section 31 of the said township and range, section 5 of township 10 north, range 11 east, and section 36 of township 11 north, range 10 east M. D. M. to a point near the River Hill Quartz Mine.

Tenth: That certain canal or ditch and flumes called or known as the Clay Hill Ditch, more particularly described as follows, to-wit: Commencing at junction with Poverty Point Ditch in section 32 of township 11 north of range 11 east, and extending thence through said section 32 and through sections 5 and 8 of township 10 north range 11 east, M. D. M. to Clay Hill.

Eleventh: That certain canal or ditch and flumes called or known as the Ober Ditch, and more particularly described as follows, to-wit: Commencing at a point

or intake from Big Canon in section 5 of township 10 north of range 11 east, and extending thence through said section 5 and through sections 6 and 8 of said township and range, and sections 36 and 35 of township 11 north, range 10 east, M. D. M., via County Hospital, to a point on the Ober Ranch in said section 35.

Twelfth: Those certain canals and ditches and flumes whether hereinbefore named and particularly described or not, which were conveyed or purported to be conveyed to the El Dorado Water and Deep Gravel Mining Company by Benjamin T. Hunt and others by deed bearing date the 26th day of September, 1873, and recorded in the office of the County Recorder of the said County of El Dorado on the 7th day of October, 1873, in Book O of Deeds, pages 587 to 591 inclusive, and all other property, real and personal, and property rights of every name, kind, nature or description conveyed or purporting to be conveyed, by the deed last mentioned to the said El Dorado Water and Deep Gravel Mining Company.

Thirteenth: All laterals, lateral canals, branch canals and ditches leading from or to any and all the canals and ditches hereinbefore described, and any and all tributaries to said canals and ditches owned and controlled by said El Dorado Water and Deep Gravel Mining Company, a corporation, at the time of making and executing its deed to said C. N. Beal, bearing date June 15th, 1907, recorded in Book 68 of Deeds at pages 251 to 262 inclusive, in the office of the County Recorder of the County of El Dorado, State of California, and by the said deed conveyed to the said C. N. Beal.

Fourteenth: All the rights, of every name, kind, nature and description conveyed to the said C. N. Beal by the deed last mentioned which at the said time of the making and executing of the said deed had become and were then vested in the said El Dorado Water And Deep Gravel Mining Company, a corporation, by appropriation, grant, conveyance, prescription, user or otherwise, in and to all or any of the waters of the South Fork of the American River, and in and to all or any of the waters of any and all tributaries of said South Fork of the American River, including among others of said tributaries, Silver Lake, Twin Lakes, Audrain Lake, Echo Lake, the Medley Lakes, Silver Fork, Slippery Ford Branch, Lake Henry or Lake George, the lakes and ponds of the Slippery Ford Branch of the South Fork of the American River, Alder Creek, Plum Creek, Hangtown Creek, Webber Creek, Mill Creek or Wolf Creek, Strawberry Creek, Silver Creek, and all other creeks, streams and natural waters flowing into said lakes and creeks, or any of them, and all rights conveyed to said C. N. Beal by said deed and which at the time of the making and executing of said deed had become vested in said El Dorado Water and Deep Gravel Mining Company, a corporation, by appropriation, grant, conveyance, prescription, user or otherwise, in and to the beds and banks or any part of the beds and banks, of all or any of the rivers, lakes, creeks and streams aforesaid, whether included in the specific appropriations and claims of water rights next hereinafter mentioned or not.

Fifteenth: All rights of every name, kind, nature and description conveyed by said deed bearing date June 15th, 1907, to said C. N. Beal that had become and were at the time of the making of said deed vested in said El Dorado Water and Deep Gravel Mining Company, a corporation, by appropriation, grant, conveyance, prescription, user or otherwise, in and to the following described appropriations and claims of water and water rights, to-wit:

1. That certain appropriation of, claim to, and right of water described in the notice of claim made by John Kirk and F. A. Bishop on May 7th, 1872, and recorded in the office of the County Recorder of the County of El Dorado, State of California, on May 15th, 1872, in Book A of Water Rights, page 11.

2. That certain appropriation of, claim to, and right of water described in the notice of claim made by said John Kirk and F. A. Bishop on May 7th, 1872, and recorded in the office of the Recorder of said County of El Dorado on May 15, 1872, in Book A of Water Rights, page 13.

3. That certain appropriation and claim of water described in the notice of claim to and right of water described in the notice of claim made by said John Kirk and

F. A. Bishop on May 7th, 1872, and filed in the office of the Recorder of said County of El Dorado on May 15th, 1872, in Book A of Water Rights, page 15.

4. That certain appropriation and claim of water described in the notice of claim to and right of water described in the notice of claim made by the said John Kirk and F. A. Bishop on May 7th, 1872, and filed in the office of the Recorder of the said County of El Dorado, on May 15th, 1872, in Book A of Water Rights, page 17.

5. That certain appropriation and claim of water described in the claim to and right of water described in the notice of claim made by said John Kirk and F. A. Bishop on May 6th, 1872, and filed in the office of the Recorder of said County of El Dorado, on May 15th, 1872, in Book A of Water Rights, page 19.

6. That certain appropriation and claim of water described in the notice of claim to and right of water described in the notice of claim made by said John Kirk and F. A. Bishop on May 13th, 1872, and filed in the office of the Recorder of the said County of El Dorado on May 15th, 1872, in Book A of Water Rights, page 21.

7. That certain appropriation and claim of water described in the notice of claim to and right of water described in the notice of claim made by said John Kirk and F. A. Bishop on May 7th, 1872, and filed in the office of the Recorder of said County of El Dorado on May 15th, 1872, in Book A of Water Rights, page 23.

8. That certain appropriation and claim of water described in the notice of claim to and right of water described in the notice of claim made by George E. Williams and others on May 22nd, 1873, and filed in the office of the Recorder of Amador County on June 2d, 1873, in Book A of Water Rights, page 34.

9. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others on April 11, 1872, and filed in the office of the Recorder of El Dorado County, on April 18th, 1872, in Book A of Water Rights, page 1.

10. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others, on May 7th, 1872, and filed in the office of the Recorder of El Dorado County, on May 13th, 1872, in Book A of Water Rights, page 9.

11. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others on May 16th, 1873, and filed in the office of the Recorder of El Dorado County, on May 23rd, 1873, in Book A of Water Rights, page 57.

12. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others on May 16th, 1873, and filed in the office of the Recorder of El Dorado County on May 23d, 1873, in Book A of Water Rights, page 59.

13. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others on May 16th, 1873, and filed in the office of the Recorder of El Dorado County on May 23rd, 1873, in Book A, of Water Rights, page 61.

14. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others on May 16th, 1873, and filed in the office of the Recorder of El Dorado County on May 23rd, 1873, in Book A, of Water Rights, page 63.

15. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said George E. Williams and others on May 17th, 1873, and filed in the office of the Recorder of El Dorado County on May 23rd, 1873, in Book A, of Water Rights, page 65.

16. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by El Dorado Water and Deep Gravel Mining Company, on August 25th, 1874, and filed in the office of the Recorder of El Dorado County on September 3rd, 1874, in Book A, of Water Rights, page 75.

17. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on September 28th, 1874, and filed in the office

of the Recorder of El Dorado County on September 29th, 1874, in Book A of Water Rights, page 79.

18. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on October 25th, 1875, and filed in the office of the Recorder of El Dorado County, on November 2d, 1875, in Book A of Water Rights, page 95.

19. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on November 23d, 1875, and filed in the office of the Recorder of El Dorado County on November 29th, 1875, in Book A of Water Rights, page 97.

20. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on August 16th, 1876, and filed in the office of the Recorder of El Dorado County on August 17th, 1876, in Book A of Water Rights, on page 104.

21. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on October 22d, 1876, and filed in the office of the Recorder of El Dorado County on October 26th, 1876, on Book A of Water Rights, page 107.

22. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on December 18th, 1886, and filed in the office of the Recorder of El Dorado County on December 20th, 1886, in Book A of Water Rights, page 195.

23. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on June 17th, 1899, and filed in the office of the Recorder of El Dorado County, on June 28th, 1899, in Book B of Water Rights, page 238.

24. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by said El Dorado Water and Deep Gravel Mining Company on October 7th, 1899, and filed in the office of the Recorder of El Dorado County on October 11th, 1899, in Book B of Water Rights, page 244.

25. That certain appropriation and claim of water described in the notice of claim and rights of water described in the notice of claim made by John Blair, W. H. Brown and James Blair, on September 5th, 1874, and filed in the office of the Recorder of El Dorado County on September 7th, 1874, in Book A of Water Rights, page 78.

26. That certain appropriation and claim of water described in the notice of claim and right of water described in the notice of claim made by Arthur Young on February 21st, 1894, and filed in the office of the Recorder of El Dorado County on February 23rd, 1894, in Book B of Water Rights, page 94.

27. That certain appropriation and claim to the water flowing in Brush Canyon, described in the notice of claim made by Alex D. Henderson on and from August 8th, 1899, and filed in the office of the Recorder of El Dorado County on August 14th, 1899, in Book B of Water Rights, page 241.

28. That certain appropriation and claim to the water flowing in Long Canyon, described in the notice of claim made by Alex D. Henderson on and from August 8th, 1899, and filed in the office of the Recorder of El Dorado County on August 14th, 1899, in Book B of Water Rights, page 241.

29. That certain appropriation and claim to the water flowing in Big Iowa Canyon, described in the notice of claim made by said Alex D. Henderson on and from August 8th, 1899, and filed in the office of the Recorder of El Dorado County on August 14th, 1899, in Book B of Water Rights, page 240.

30. That certain appropriation and claim to the water flowing in Little Iowa Canyon described in the notice of claim made by said Alex D. Henderson on and from August 8th, 1899, and filed in the office of the Recorder of El Dorado County on August 14th, 1899, in Book B of Water Rights, page 240.

31. That certain appropriation and claim to the water flowing in South Fork of the American River, described in the notice of claim made by Alex D. Henderson (named in the body of said notice, as recorded, Alex D. Hamilton, but correctly signed A. D. Henderson) on and from August 29th, 1896, and filed in the office of the Recorder of El Dorado County on August 31st, 1896, in Book B of Water Rights, page 165.

32. That certain appropriation and claim to the water described in the notice of claim made by Alexander D. Henderson on and from August 29th, 1896, and filed in the office of the Recorder of El Dorado County, on August 31st, 1896, in Book B of Water Rights, page 194.

Sixteenth: All the rights conveyed to said C. N. Beal by said deed so bearing date June 15th, A. D. 1907, theretofore acquired by said El Dorado Water and Deep Gravel Mining Company, under all or any of the notices and claims mentioned in subdivisions numbered one (1) to thirty-two (32) inclusive, of the preceding clause or paragraph hereof numbered "Fifteenth", to all or any reservoirs and reservoir sites, dams, and dam sites mentioned or referred to in said notices and every of them, whether the same were acquired by said El Dorado Water and Deep Gravel Mining Company under said notices as original claimant or appropriator thereof, or by any grant or conveyance from original claimants or appropriators, or by prescription or user or otherwise.

Seventeenth: All the right, title and interest which said C. N. Beal then had or may thereafter acquire in and to the distributing reservoirs owned, claimed, used or occupied by said El Dorado Water and Deep Gravel Mining Company up to the time of the delivery of said deed so dated June 15th, 1907, to said C. N. Beal and all the estate, right, title and interest of the said C. N. Beal at the time of said mortgage dated June 15th, 1907, in and to the lands upon which the same are located or constructed, and particularly the following reservoirs, to-wit:

1. That certain reservoir known as the Nigger Hill Reservoir, situated on Nigger Hill, in Placerville Township, in section 32, of township 11 north of range 11 east, Mount Diablo Base and Meridian.

2. That certain reservoir known as the Placerville Reservoir situated on and adjacent to Excelsior Placer Mine (which Placer Mine was at the time of the delivery of said deed, June 15th, 1907, owned by the said El Dorado Water and Deep Gravel Mining Company) together with the right to said C. N. Beal to maintain said reservoir thereon forever as a reservoir for storing and distributing water, subject to the right reserved to said El Dorado Water and Deep Gravel Mining Company to all minerals on the bed rock and to a height of not more than ten feet above the bed rock beneath said reservoir and the right to extract said minerals therefrom in such manner at all times that the maintenance of said reservoir shall not in any way be interfered with or endangered.

3. That certain reservoir known as the Webber Reservoir, situated a short distance southerly from the said Placerville Reservoir, together with the right to maintain said reservoir thereon forever, as a reservoir for storing and distributing water, right being reserved to said El Dorado Water and Deep Gravel Mining Company to all minerals on the bed rock and to a height of not more than ten feet above the bed rock beneath said reservoir and the right to extract minerals therefrom in such manner at all times that the maintenance of said reservoir shall not in any way be interfered with or endangered.

4. That certain reservoir known as the El Dorado Reservoir, situated about a mile and a half in a northeasterly direction from the town of El Dorado.

5. All other reservoirs and all the right, title and interest which the said C. N. Beal then (upon receipt by him of said deed of June 15, 1907) had or may thereafter acquire in and to the lands whereon the same are situated and up to the time of the delivery of the said deed so bearing date of June 15th, 1907, theretofore owned or used by said El Dorado Water and Deep Gravel Mining Company as part of its

said water system and works so conveyed to said C. N. Beal by said Deed of June 15th, 1907, whether the same are or are not hereinbefore or hereinafter specifically described.

Eighteenth: All of the right, title and interest which the said C. N. Beal then (upon receipt by him of said deed of June 15, 1907) had or may thereafter acquire in and to all dams then existing upon all or any of the rivers, creeks and streams hereinbefore named, and their several tributaries, and at the outlet of all or any of the lakes and ponds hereinbefore named, whether such dams are or are not hereinbefore or hereinafter specifically described.

Nineteenth: All of the right, title and interest which the said C. N. Beal then (on the receipt by him of said deed of June 15th, 1907) had or may thereafter acquire in and to all tunnels, flumes, trestles, pipe lines, pipes, gates, syphons, and all other appliances and property constituting any part or parts of the canals, ditches, reservoirs and water system therein described and conveyed to said C. N. Beal by said deed so dated June 15th, 1907, and all tools, implements, appliances and all other personal property used in connection therewith.

Twentieth: All those certain lots, pieces or parcels of land situate, lying and being partly in the County of Amador and partly in the County of El Dorado, State of California, and particularly described as follows, to-wit:

1. In township ten (10) north range seventeen (17) east, Mount Diablo Base and Meridian; all of the southwest quarter of the southeast quarter of section twenty-nine (29); all of the northeast quarter of the northeast quarter; all of the northeast quarter of the southwest quarter of section thirty-two (32), and all of lots two (2) and four (4) of said section thirty-two (32).

2. In Township nine (9) north, range seventeen (17) east, M.D.B. and M. All of lot one (1) of section five (5).

Twenty-first: All those certain lots, pieces or parcels of land situate, lying, and being in the County of Amador, State of California, particularly described as follows, to-wit:

In township nine (9) north, range seventeen (17) east, Mount Diablo Base and Meridian; All of lots two (2), three (3), four (4), seven (7), eight (8), nine (9), and ten (10), of section five (5).

Twenty-second: All those certain lots, pieces or parcels of land situate, lying and being in the said County of El Dorado, particularly described as follows, to-wit:

1. In township ten (10) north, range seventeen (17) east, Mount Diablo Base and Meridian. All of the south half of the southwest quarter of section twenty-nine (29).

2. In township eleven (11) north, range fifteen (15) east Mount Diablo Base and Meridian, all the southwest quarter of the southwest quarter of section twenty-eight (28); all the south half of the southeast quarter of section twenty-nine (29); all the northeast quarter of the northwest quarter, all the northwest quarter of the northeast quarter, and all the south half of the northeast quarter of section thirty-three (33).

3. In township ten (10) north, range eleven (11) east, Mount Diablo Base and Meridian; All the estate, right, title and interest which the said C. N. Beal then (upon receipt by him of said deed of June 15th, 1907), had or may thereafter acquire in and to the northwest quarter of the northeast quarter of section twelve (12).

4. All that certain piece or parcel of land and reservoir site and reservoir in said County of El Dorado, situate, lying and being partly in section twelve (12) of township ten (10) north, range eleven (11) east, and partly in section seven (7) of township ten (10) north range twelve (12) east, Mount Diablo Base and Meridian, more particularly described as follows, to-wit: Commencing at a point from which the northeast corner of section twelve (12) township ten (10) north range eleven (11) east bears south seventy-four (74) degrees west, no variation, 3 chains and 34 links and running thence south forty-three and three-quarters (43 $\frac{3}{4}$) degrees east 4 chains, thence south forty-eight (48) degrees and three minutes west one chain, thence south thirty-six (36) degrees fifteen (15) minutes west one chain, thence south thirty-one (31) degrees twenty-six (26) minutes west one chain, thence south twenty (20) degrees three minutes west 2 chains, thence south eight (8) degrees twenty-eight (28) minutes west one chain, thence south fifteen degrees fifty-one

minutes west one chain, thence south thirty-one (31) degrees forty-five (45) minutes west one chain; thence south thirty-seven (37) degrees forty-two minutes west one chain, thence south ten degrees three minutes west one chain; thence south twenty-seven degrees fifty-nine (59) minutes west one chain, thence south forty (40) degrees twenty-eight (28) minutes west one chain, thence south ten (10) degrees forty-three minutes west one chain, thence south thirty-three (33) degrees fifty-three (53) minutes west one chain, thence south fifty-five (55) degrees thirteen (13) minutes west one chain, thence south eighty-one (81) degrees three minutes west 2 chains, thence north eighty-eight (88) degrees ten (10) minutes west one chain, thence south eighty-six (86) degrees fifty-eight (58) minutes west one chain, thence south seventy-four (74) degrees twenty-two minutes west one chain, thence south sixty-four degrees nine minutes west one chain, thence south eighty-one (81) degrees fifty-seven minutes west one chain, thence north sixty-nine degrees thirty-nine minutes west 3 chains, thence north seventy-nine degrees forty-five minutes west two chains, thence north sixty-five (65) degrees west one chain, thence north fifty-one (51) degrees forty-five (45) minutes west one chain, thence north eighty-five (85) degrees twenty-two (22) minutes west one chain, thence north seventy-seven degrees fourteen minutes west one chain, thence north eighty-seven degrees (87) fifty (50) minutes west one chain, thence north seventy-three degrees two minutes west 2.31 chains, thence north ten (10) degrees twenty-eight (28) minutes east 10.69 chains, thence south seventy-seven (77) degrees, fifty-three (53) minutes east one chain, thence north sixty-nine degrees sixteen (16) minutes east one chain, thence north sixty-six (66) degrees fifty-one (51) minutes east one chain, thence south sixty-nine degrees thirty-nine (39) minutes east one chain; thence south seventy degrees forty-six minutes east one chain, thence south eighty-five degrees thirty minutes east one chain, thence south seventy-six degrees fifty-two minutes east one chain, thence south seventy-seven degrees twenty-four minutes east one chain, thence south eighty-three (83) degrees thirty-seven (37) minutes east one chain, thence north eighty-nine degrees eighteen minutes east one chain, thence north eighty-three (83) degrees twenty-two minutes east one chain, thence north seventy-four degrees five minutes east one chain, thence north sixty-nine degrees thirty-one minutes east one chain, thence north sixty-three degrees sixteen minutes east two chains, thence north fifty-eight degrees forty-three (43) minutes east 2 chains, thence north forty-seven degrees eleven (11) minutes east 2.42 chains to the place of beginning, and containing twenty-six and forty-two hundredths (26.42) acres, more or less.

And also all rights of way, rights of way for ditches, rights to take earth, timber and rock, and all other rights, privileges, easements, which were granted to said El Dorado Water and Deep Gravel Mining Company, its successors and assigns, by Alburn J. Blakeley and C. J. Blakeley, his wife, by deed bearing date the fourth day of January, 1877, recorded in the office of the County Recorder of said County of El Dorado on the fifth day of March, 1877, in Book T of Deeds at page 488.

5. All of lots numbered fourteen (14) and fifteen (15) in block twenty-one in the City of Placerville, in said County of El Dorado, as the said lots are marked and numbered and designated on the official map and in the field notes of the official survey of said City of Placerville, on file and of record in the office of the County Recorder of the said County of El Dorado.

Twenty-third: All the right forever to overflow any part or all of the southwest quarter of section eight (8) in township nine (9) north, range seventeen east, Mount Diablo Base and Meridian, which was granted to the said El Dorado Water and Deep Gravel Mining Company, a corporation, by P. R. Plasse and Barthilde Plasse, his wife, by deed bearing date the 30th day of June, 1879, and recorded in the office of the County Recorder of the County of Amador in Book C of Agreements, page 417.

Twenty-fourth: All the estate, right, title, property, interest and easements retained by said El Dorado Water and Deep Gravel Mining Company in and to the lands in said County of El Dorado described as: All the south half of the northeast quarter, and the southeast quarter of the southwest quarter of section one (1) in township eleven (11) north, range seventeen (17) east, and the southwest quarter of the southwest quarter of section six (6) in township eleven (11) north, range

eighteen (18) east, Mount Diablo Base and Meridian, in and by a certain deed of conveyance bearing date in the month of March, 1877, and recorded in the office of the County Recorder of El Dorado County, wherein and whereby the said El Dorado Water and Deep Gravel Mining Company conveyed to one J. D. Phillips a portion of said lands but excepted from said deed and conveyance all such land as it (said corporation) should desire or might appropriate and use for reservoirs and ditch purposes and also reserved to itself and its successors the right of way for all reservoirs, ditches and ingress and egress to such reservoir or reservoirs to construct and operate the same, and also all earth, rock and timber upon said land for the construction of any such reservoirs and ditches as they might desire to construct and maintain forever.

Twenty-fifth: All the rights which the said C. N. Beal then (upon receipt of the said deed so bearing date of June 15th, 1907), had in the body of water known as Echo Lake, situated in part in section one (1) in township eleven (11) north of range seventeen (17) east, Mount Diablo Base and Meridian, in El Dorado County aforesaid, and all rights to maintain a reservoir thereon and to maintain a dam across the outlet of said Lake near the dividing line between lots two (2) and three (3) of the northeast quarter of section one (1) and to raise the said dam or build a new one in the manner described in a certain instrument executed by J. S. Becker on the 19th day of June, 1903, and recorded in the office of the County Recorder of said El Dorado County on the fifth day of April, 1907, in Book A of Miscellaneous Records, page 47, and all other rights in said body of water, and in lots one (1), two (2), three (3) and four (4) of the northeast quarter, and lot five (5) of the northwest quarter of said section one (1), township eleven (11) north, range seventeen (17) east, Mount Diablo Base and Meridian, as said rights are defined in said instrument executed by said J. S. Becker.

Twenty-sixth: All the right granted to the said El Dorado Water and Deep Gravel Mining Company, its successors and assigns by one M. K. Neilsen by an instrument in writing bearing date the 9th day of June, 1903, and recorded in the office of the County Recorder of El Dorado County on the 15th day of October, 1903, in Book F of Agreements, page 265, wherein and whereby said M. K. Neilsen granted to the said El Dorado Water and Deep Gravel Mining Company, a corporation, the right, on payment of stumpage as therein provided, to cut and remove standing timber from all the lands and premises described as the west half of the southeast quarter, the southeast quarter of the northeast quarter, and the northeast quarter of the southwest quarter of section twenty-eight (28) in township eleven (11) north of range fifteen (15) east, Mount Diablo Base and Meridian.

And also all the right, title and interest of the party of the first part in and to all ditches, canals, flumes, water rights, reservoirs, and other property formerly belonging to El Dorado Water and Deep Gravel Mining Company which are appurtenant to the property hereinbefore described, whether the said property is hereinabove referred to or not.

Also all that certain property situated in the Town or City of Placerville, County of El Dorado, State of California, and known and described as lots numbers sixteen (16) and seventeen (17) in block number twenty-one (21) of said Town or City of Placerville.

Also, all the right, title and interest of the party of the first part in and to the South half of the Southeast quarter of Section One (1), in Township Eleven (11) North, Range Seventeen (17) East, Mount Diablo Base and Meridian. *Together* with all the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining.

DECISION No. 3944.

IN THE MATTER OF THE APPLICATION OF E. G. HOPSON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF A WATER SYSTEM FOR THE IRRIGATION OF CERTAIN LANDS IN TOWNSHIPS 30 AND 31 NORTH, RANGE 4 WEST, IN SHASTA COUNTY.

Application No. 2599.

Decided December 21, 1916.

Order preliminary to the issuance of a certificate declaring that such certificate will be issued to applicant, permitting the construction of an irrigation system in Shasta County, when applicant shall have procured permission from the State Water Commission permitting the diversion and distribution of water and shall have procured necessary franchises and rights of way.

E. G. Hopson, for Applicant.

REPORT OF THE COMMISSION.

Applicant seeks a certificate that public convenience and necessity require or will require the construction of an irrigation system, by which water will be diverted from the north fork of Cow Creek, conveyed nearly eleven miles, and distributed to about 3,000 acres of land lying on what is known as Stillwater Plain, about six miles southeast of Redding, all in Shasta County.

Application was made to the State Water Commission for authority to divert 40 cubic feet of water, which authority it appears will be granted upon condition that certificate of public convenience and necessity be procured from this commission, that applicant produce evidence of title at least for right of way over land upon which point of diversion is situated, and evidence that the owners of the irrigable land desire applicant to proceed under his said application to said commission. The use is to be limited, however, to 29.6 cubic feet per second during times of extreme shortage. Applicant estimates the minimum flow of Cow Creek at 60 cubic feet per second.

Applicant plans to construct pipe line for a distance of about a mile along a little used public road. Transmission line will in places cross other public roads. Applicant anticipates that suitable franchise or permits for this purpose can be readily procured. Provision is made in his estimates for purchase of necessary rights of way over private land.

Applicant submits the following estimates of cost of 35,360 feet of open ditch, 8,350 feet of flume and 12,750 feet of 32-inch wood stave

pipe, a total of 56,750 feet, all with capacity sufficient for at least 40 second feet:

Excavating 28,000 cubic yards	\$7,000 00
Excavating 1,500 yards hardpan	2,300 00
Structures, farm bridges, culverts under highways, etc.	1,500 00
Clearing and grubbing en route	1,700 00
Engineering and contingencies	2,500 00
Flume, 8,350 feet, including engineering and contingencies at 25 per cent	15,630 00
Pipe 12,750 feet including engineering and contingencies at 25 per cent	30,270 00
Rights of way	3,300 00
Diversion dam of logs and rock	500 00
Miscellaneous items	600 00
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Total cost main canals	\$65,300 00
Distribution system, allowance of \$8.00 per acre for ditches on 3,000 acres	24,000 00
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Total estimated cost of system	\$89,300 00

The above estimates are based upon preliminary surveys not worked out as to details.

Annual charges are estimated by applicant as follows:

Depreciation on wood stave pipe at 4 per cent	\$1,200 00
Depreciation on flume at 10 per cent	1,600 00
Upkeep of permanent works, ditches, etc.	1,000 00
Renewal of structures	500 00
Salary of foreman	1,200 00
Salary of patrolman (part of year)	600 00
Overhead expenses	1,800 00
Interest on investment	7,000 00
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Total	\$14,900 00
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Revenue, 3,000 acres at \$5.00	\$15,000 00

Mr. R. W. Hawley, hydraulic engineer for the commission, after brief inspection of the country, and a rough check of the estimates, considers them sufficiently large.

The soil of the area to be irrigated is reported to be uniform in quality, consisting of a reddish clay loam, officially designated as Redding loam, from 4 to 5 feet deep, underlaid with a stratum of gravel 20 to 40 feet deep, and this in turn underlaid with hardpan.

A small group of men owning the lands to be irrigated have expressed their willingness to pay the proposed rate of \$5.00 per acre per year for water for a proposed delivery of about $2\frac{1}{2}$ acre feet per year per acre.

As appears from the estimates above, the financial success of operating the enterprise will depend upon the early and continued payment of rates for practically all of the land proposed to be irrigated. Applicant states that the owners of the land are ready to enter into written

contract to that effect, and to put the most of the lands into immediate cultivation, which would justify such expense until such time as the lands or portions thereof may be subdivided and sold.

Applicant plans to finance the construction of the system by personally borrowing 70 to 80 per cent of its cost, to be evidenced by long time notes to be secured by mortgage on the property, without the sale of bonds or stock to the public. He reports that the money has been arranged for.

The lands in question are not within the area irrigated or proposed to be irrigated by any other public utility.

ORDER.

E. G. Hopson having applied to the Railroad Commission for a certificate that public convenience and necessity require the construction of an irrigation system by which to conduct water from the north fork of Cow Creek and distribute it upon about 3,000 acres of land lying upon Stillwater Plain near Redding, Shasta County, and a public hearing having been held thereon,

The Railroad Commission of the state of California hereby declares that it will hereafter upon application issue a certificate that public convenience and necessity require the construction of the irrigation water system hereinabove described; provided, applicant shall present evidence satisfactorily showing:

1. That he has procured from the State Water Commission authority to divert water and distribute it upon the lands above described.

2. That he has procured title to necessary rights of way over private lands, and to franchises or permits for using the necessary public roads and highways.

Any certificate or authority which may issue hereunder shall extend only to such actual construction as shall be commenced within ninety (90) days from the date thereof and finished within six months after it is commenced. During the period of construction, applicant shall file with the commission monthly reports showing progress of the work.

Dated at San Francisco, California, this 21st day of December, 1916.

DECISION No. 3945.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 808.

Decided December 23, 1916.

REPORT OF THE COMMISSION.

ELEVENTH SUPPLEMENTAL ORDER.

Supplemental application having been made by the San Diego and Arizona Railway Company, a corporation, on December 18, 1916, for the approval by the commission of a certain contract covering grading and construction work from Engineer's Survey Station "T" 1490 + 00 to Engineer's Survey Station "K" 334 + 50.1 = "E" 334 + 50.1, a distance of 20.66 miles to be entered into with Twohy Brothers Construction Company, and it appearing to the commission that this application should be granted,

It is hereby ordered by the Railroad Commission of the state of California that this application be and the same is hereby approved and applicant is granted permission to enter into said contract.

Dated at San Francisco, California, this 23d day of December, 1916.

Decisions Nos. 3946 and 3947, grade crossings; not printed. See end of volume.

DECISION No. 3948.

IN THE MATTER OF THE APPLICATION OF BAY POINT LIGHT AND WATER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF CERTAIN PROPERTIES TO BAY POINT UTILITIES COMPANY.

Application No. 2647.

IN THE MATTER OF THE APPLICATION OF BAY POINT UTILITIES COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 2648.

Decided December 23, 1916.

Light and Water company authorized to transfer its water properties to the Utilities company for a consideration of \$14,700.00 par value of stock of the latter company, which amount of stock the Utilities company is authorized to issue, provided, the Light and Water company shall file a stipulation satisfactory to the commission agreeing that before it shall pay out as a dividend or otherwise dispose of any of the stock herein authorized, it shall proportionately reduce the amount of its own capital stock.

Thomas A. Thatcher, of Denman & Arnold, for Applicants.

REPORT OF THE COMMISSION.

The first of the above-entitled matters is an application by Bay Point Light and Water Company for authority to sell or transfer all of its water utility property to Bay Point Utilities Company; the second is an application by the last-mentioned company for authority to issue \$14,700.00 par value of its capital stock in payment for said property.

At the public hearing which was held in San Francisco, December 15, 1916, the applications were consolidated with the consent of the applicants.

It appears that Bay Point Light and Water Company, hereinafter designated and referred to as the "old company," a corporation engaged in furnishing water and electric energy to the inhabitants of the town of Bay Point, Contra Costa County, has a total authorized capital stock of the par value of \$25,000.00, all of which is issued and outstanding, and practically all of which is held by C. A. Smith Lumber Company, which is also its principal customer.

It further appears that the Bay Point Utilities Company, hereinafter designated and referred to as the "new company," has been organized primarily for the purpose of taking over that portion of the old company's property used in its water supply business. The articles of incorporation of the new company provide for a total authorized capital stock of 150 shares of the par value of \$100.00 per share, three of which have been issued for the purpose of incorporation; and it is now proposed to issue the remaining 147 shares to the old company in payment for said water properties, which are more particularly described in the order following this opinion. The old company has submitted a copy of its balance sheet as of November 1, 1916, as follows:

<i>Assets.</i>	
Accounts receivable	\$111 40
Electric merchandise	252 00
C. A. Smith Lumber Company	7,298 44
Interocean Transportation Company	20 00
Water department—	
Real estate easements	10,875 00
Pumping buildings	250 00
Pumping equipment	1,000 00
Wells	1,500 00
Tanks	1,000 00
Distributing mains	6,000 00
Services	500 00
Hydrants	250 00
Total water department	\$21,375 00

Electric department—	
Transmission lines -----	\$700 00
Distribution lines -----	1,420 00
Transformers -----	1,500 00
Electric services -----	750 00
Meters -----	900 00
General office equipment -----	100 00
Total electric department -----	\$5,370 00
Total assets -----	\$34,426 90
<i>Liabilities.</i>	
Capital stock -----	\$25,000 00
Coos Bay Lumber Company -----	6,448 19
Surplus -----	2,277 61
Profit for 1916 -----	701 10
Total liabilities -----	\$34,426 90

The property which the old company proposes to sell to the new company is appraised by the former company, as follows:

Real estate and easements -----	\$10,875 00
Pump buildings -----	250 00
Pump equipment -----	1,000 00
Wells -----	1,500 00
Tanks (2) -----	1,000 00
Distributing mains -----	6,000 00
Services -----	500 00
Hydrants -----	250 00
Accounts receivable (approximately) -----	940 00
Total -----	\$22,315 00

These figures do not include any allowance for depreciation; and while most of the equipment, although six or eight years old, is apparently in good condition, the larger of the two tanks above referred to is so far depreciated as to be almost worthless, and is to be replaced in the near future by a concrete reservoir.

The real estate may be divided into two main items, the first being ten acres of water-bearing land for which the old company, according to the testimony of its secretary, Mr. Charles L. Trabert, actually paid the sum of \$10,000.00. The second item includes the cost of the ground upon which the tanks are situated, and easements for the pipe line, etc., amounting in all to \$875.00.

Without determining the value of the property to be transferred, it appears to us that it is more than sufficient to justify the issue of \$14,700.00 par value of the new company's capital stock as its purchase price. It is apparent, however, that after this transfer the physical value of the old company's property, exclusive of the stock in the new company will, according to its own balance sheet, not exceed \$5,370.00; and if the old company should declare a dividend, or otherwise dispose

of the new company's stock without receiving more than its par value, the old company's physical assets would then be reduced to far below the par value of its outstanding capital stock.

This matter was discussed at the hearing, and it was suggested that it would be necessary for the old company to reduce its capital stock materially before it could dispose of any of the new company's stock. Accordingly, we shall grant both of the above-entitled applications, subject to the filing of a stipulation by the old company, which will prevent its disposal of any of the new company's capital stock without adequately reducing its own capitalization.

ORDER.

Bay Point Light and Water Company having applied to this commission for an order authorizing the sale of certain properties to Bay Point Utilities Company, and Bay Point Utilities Company having applied to this commission for an order authorizing the issue of 147 shares of its capital stock of the par value of \$100.00 per share, and said applications having been consolidated with the consent of the applicants, and a public hearing having been held upon said consolidated applications, and it appearing that the purposes for which said stock is to be issued by Bay Point Utilities Company are not in whole or in part reasonably chargeable to operating expenses or to income, and that for the reasons set forth in the foregoing opinion the applications should be granted, subject to the conditions hereinafter set forth.

It is hereby ordered that Bay Point Light and Water Company be and the same is hereby authorized to sell, transfer and convey to Bay Point Utilities Company all the property described in the appendix hereto, marked "Exhibit A," and hereby incorporated into and made a part of this opinion and order, and to receive in payment therefor 147 shares of the capital stock of said corporation.

It is hereby further ordered that Bay Point Utilities Company be and the same is hereby authorized to issue to Bay Point Light and Water Company 147 shares of its capital stock of the par value of \$100.00 per share.

The authority herein granted to applicants is granted upon the following conditions and not otherwise:

(1) This order shall not become effective until Bay Point Light and Water Company shall have filed with the Railroad Commission of California a stipulation satisfactory to this commission to the effect that before disposing of any of the stock of Bay Point Utilities Company, either in the form of a dividend or otherwise, it will reduce its own capital stock to an amount satisfactory to this commission, which amount shall be set forth in said stipulation, and shall have obtained a

supplemental order from this commission to the effect that such stipulation, satisfactory to this commission, has been filed.

(2) The stock herein authorized to be issued by Bay Point Utilities Company shall be issued in payment of or exchange for the property of Bay Point Light and Water Company authorized in this order to be transferred.

(3) The purchase price for the property herein authorized to be transferred, and the action of this commission in authorizing the transfer, shall not be binding upon this commission or any other rate-fixing body, as affecting the valuation of said property for rate-fixing purposes, or otherwise.

(4) The authority herein granted to transfer said property and to issue said stock is conditioned upon said transfer being made and said stock being issued on or before June 30, 1917.

(5) Bay Point Utilities Company shall keep a true and accurate record of the issue of said stock, and shall, on or before the twenty-fifth day of the month following the said issue of said stock make a verified report to this commission, setting forth the disposition of said stock, the conditions of such disposition, and for what properties the same was issued.

Dated at San Francisco, California, December 23, 1916.

EXHIBIT A.

Properties to Be Sold by Bay Point Light and Water Company to Bay Point Utilities Company.

All that certain lot, piece or parcel of land, situate, lying and being in the County of Contra Costa, State of California, more particularly described as follows, to wit:

Beginning at a point on the westerly line of the main County Road between the towns of Bay Point and Concord, Contra Costa County, California, (said point being distant 864.85 feet on an assumed line bearing South $21^{\circ} 10'$ East from a point at the intersection of the Westerly line of said County Road and the center line of a 6° curve and the main line of Bay Point & Clayton Railroad, said distance 864.85 feet measured along said Westerly line of said road to the point of beginning); thence at right angles to said Westerly line of said County Road and running in a Westerly direction distant 252.9 feet to a point; thence at right angles and running in a Northerly direction, parallel with said Westerly line of said County Road distant 535.00 feet to a point; thence at right angles and running in a westerly direction 407.1 feet to a point; thence at right angles and running in a Southerly direction 535.0 feet to a point; thence at right angles and running in an Easterly direction distant 213.69 feet to a point; thence at right angles and running in a Southerly direction 488.0 feet to a point; thence at right angles and running in an Easterly direction distant 446.31 feet to a point, said point being on the center line of the above mentioned County Road; thence at right angles and running in a Northerly direction along said center line of said County Road, distant 488.0 feet to a point, thence at right angles and running in a Westerly direction distant 30.0 feet to a point on the Westerly line of said County Road and the point of beginning; containing 10 acres. Also

That certain property described as Lots 7 and 8 in Block 76, as laid down and delineated on that certain map entitled "Official Map of the City of Bay Point", Filed August 17, 1908, in the office of the County Recorder, County of Contra Costa, State of California. Also

A right of way 10 feet in width, 5 feet on each side of the pipe line now installed from the parcel of land described as 10 acres above, across the following land: Beginning at the pump house erected by C. A. Smith Lumber Company on the Southeast portion of the land hereinabove described; thence along a straight line in a Northerly direction across portions of Lots 16 and 24, as shown on the map of Government or Gwin Ranch, in Contra Costa County, California, filed in the office of the County Recorder of said County on November 8, 1884, to the point of intersection of said line with the center line of a 6° curve in the main line of the Bay Point & Clayton Railroad; thence crossing said Railroad right of way 250 feet, more or less, to a point 5 feet East of the Easterly line of the right of way of the Oakland, Antioch & Eastern Railway, said point being on Lot 36, as shown on said map, 4800 feet, more or less distant Southeasterly from the Northerly boundary line of the Government or Gwin Ranch; thence along said right of way and following a line 5 feet distant therefrom and parallel thereto, 4800 feet, more or less, across Lots 35, 34, 33 and the Westerly portion of the land described as pasture lot on said map, to the Northerly boundary of the Government or Gwin Ranch as shown on the map above referred to, and to the lands of the C. A. Smith Lumber Company, formerly known as the Cunningham Ranch. Also

A right of way 10 feet in width, being 5 feet on each side of a line drawn through the center of the electric power and telephone line now erected across the following described land, together with a right to conduct water through the pipe line and to maintain, repair, enlarge, replace or add either to the pipe line or to the pole or electric lines now installed, or to erect, enlarge, repair or replace either pipe or equipment when desirable; Beginning at the pump house above referred to, thence in an Easterly direction and at right angles to the Westerly boundary of the County Road hereinabove described, to a point 5 feet East of said Westerly boundary; thence along said County Road and following a line parallel to said Westerly boundary and 5 feet distant therefrom, 750 feet, more or less; thence at right angles across said County Road and the right of way of the Oakland, Antioch & Eastern Railway to a point 5 feet East of the Easterly boundary of said right of way; thence along a line parallel to said Eastern boundary and 5 feet distant therefrom 5400 feet, more or less, in a Northerly direction across the Westerly portion of Lots 36, 35, 34, 33 and the lot shown as pasture lot in the map above referred to, to the Northerly boundary of the Government or Gwin Ranch, being the Southerly boundary of the lands of C. A. Smith Lumber Company formerly known as the Cunningham Ranch.

Concrete Pumping Building

Pumping Equipment

Wells (4 in number, 10" dimensions, 90 feet deep, annual capacity 120,000,000 gallons)

Tanks (Combined storage capacity 120,000 gallons)

Distribution Mains (21,800 feet of pipe)

Services

Hydrants

Approximate accounts receivable—\$940.00

DECISION No. 3949.

A. HUNSE

vs.

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 962.

Decided December 26, 1916.

Petition to have the commission compel defendant company to extend its 10-cent commutation rate from San Francisco to Leona Heights and to establish a \$3.00 monthly commutation rate between the points named, including also Beulah Heights. Complainant also petitions for the establishment of twenty-minute service to Leona Heights instead of the forty-minute service in effect during certain hours.

In prior decisions of the Railroad Commission it was held that existing commutation rates to Alameda County points are extremely reasonable; however, there must be a stopping point. Complainant has failed to show that the present rates are unreasonable or that present traffic justifies the establishment of twenty-minute service. Complaint dismissed.

A. Hunse, in propria persona.

W. H. Smith, Jr., for Defendant.

F. D. Elwell, for Beulah Heights Improvement Club, Intervenor.

REPORT OF THE COMMISSION.

This case was brought by A. Hunse, a resident of that portion of the city of Oakland known as Leona Heights, against the defendant, a corporation engaged in operating the interurban railroad system between San Francisco and Alameda County points, commonly known as the Key Route System, and also certain electric railways in Oakland and other cities, for the purpose of compelling defendant to carry passengers from San Francisco to Leona Heights for 10 cents, and for the further purpose of compelling defendant to maintain a twenty-minute service at all times between Broadway at Twenty-second street and Leona Heights.

The Beulah Heights Improvement Club appeared at the hearing as an intervener, asking this commission to require defendant to issue \$3.00 commutation tickets between San Francisco and Beulah Heights, a district adjoining Leona Heights; or if the commission felt that \$3.00 was not sufficient that it should then require defendant to issue either \$3.50 or \$4.00 commutation tickets between said points.

A public hearing was held in Oakland December 14, 1916. There was practically no conflict of testimony and the issues presented by the pleadings may be considered in conjunction with the evidence.

It appears that a passenger going from San Francisco to Leona Heights takes defendant's Key Route line to Broadway at Twenty-second street; he then, without receiving a transfer, boards the car

running between Twenty-second street and Leona Heights. This car carries the San Francisco passenger a distance of about $4\frac{1}{2}$ miles along Broadway, East Thirteenth and East Fourteenth streets to Forty-first avenue without collecting any additional fares, but if a passenger continues on the car beyond Forty-first avenue to Benlah Heights or Leona Heights, he is charged a 5-cent fare for the last mentioned portion of his ride, a distance of approximately $2\frac{1}{2}$ miles. A passenger going from Leona Heights to San Francisco also has to pay a total of 15 cents, the only difference being that he receives a ticket or transfer which he uses in changing from the Leona Heights car to the Key Route train at Twenty-second street.

The complainant laid considerable stress upon his contention that if an Oakland passenger boarded the Leona Heights car at Broadway, he would pay 5 cents for being carried to Forty-first avenue and then would be carried free from Forty-first avenue to Leona Heights, while a San Francisco passenger would be carried free from Broadway to Forty-first avenue and would then have to pay 5 cents to be carried from there to Leona Heights.

This, in our opinion, is merely an unintentional misstatement of the fact that defendant carries passengers from San Francisco $12\frac{1}{2}$ miles to Forty-first avenue—but no farther—for 10 cents, and that it also carries passengers between all points in Oakland reached by its street car service and Leona Heights for 5 cents. It is no more reasonable to say that defendant is charging its Oakland passengers 5 cents to carry them from Broadway to Forty-first avenue and is then carrying them free of charge from Forty-first avenue to Leona Heights than it would be to say that defendant is charging them 5 cents for the first block it carries them and is carrying them free for all the rest of the distance; and certainly the fact that San Francisco passengers board the Leona Heights car at Twenty-second street and Broadway, without resorting to the use of a transfer, does not render that portion of their ride in the Leona Heights car a free ride any more than is the ride on defendant's electric train from the ferry to Twenty-second street a free ride.

In regard to intervener's contention for the \$3.00 commutation rate, it is admitted that the present line between San Francisco and Forty-first avenue represents the longest \$3.00 commutation ride on the Key Route's entire system if measured by the actual length of the route traversed, but intervener contends that the shortest practicable route by any line should be taken as the measure of distance; and in this connection it introduced a carefully prepared map to show that if defendant's line were built by as direct a route as the Southern Pacific's line to Melrose Station, the distance from San Francisco by said suggested route to Leona Heights would be less than 12 miles, while on one of the Southern

Pacific suburban lines, on which a \$3.00 commutation rate exists, namely the line between San Francisco and Thousand Oaks, Berkeley, the distance is 12.2 miles. As to this contention, we are of the opinion that in the first place the actual mileage traveled rather than the shortest possible route should be the governing factor in a case of this kind; and in the second place, we should be very slow indeed to require defendant to extend its suburban commutation rates beyond the points already served by it, unless the parties asking for such an extension affirmatively show that the existing rates are unreasonable, for as pointed out by Commissioners Eshleman and Gordon in Decision No. 1863 (Volume 5, Opinions and Orders of the Railroad Commission of the State of California, page 555), in which the commutation rates of the Southern Pacific Company in Alameda County were exhaustively considered, the present commutation rates between San Francisco and Oakland, Berkeley and Alameda are very favorable to the inhabitants of Alameda County. On page 575 of that opinion, the commission states:

“We are of the opinion that the company has been very considerate of the people of the east bay territory in the extension of its lines and the extension of its \$3.00 commutation and 10-cent single fare rates. Such fares, when not voluntarily accorded, of course, must end somewhere. We are of the opinion that as to the portions of these east bay cities and Alameda County, other than those points to which the \$3.00 commutation rate and the 10-cent single fare rate have been heretofore voluntarily accorded or established, the company should not be required to accord them.”

As to complainant's contention that on said Leona Heights car line “between 5 and 6 o'clock a.m. and 8 o'clock p.m. there is a twenty-minute service, and after 8 o'clock p.m. there is only” a forty-minute service, whereas complainant requests that defendant should be compelled to maintain a twenty-minute service at all times during which the trains are operated, complainant failed to prove that said forty-minute service after 8 o'clock p.m. is inadequate, or that there would be sufficient traffic on said line to justify this commission in requiring defendant to establish a twenty-minute service throughout its entire operating period.

Complainant also introduced in evidence the fact that defendant's Twelfth street car is connected with its Twenty-second street cars at the ferry terminal, and that after boarding one of the Twenty-second street cars at the ferry terminal, and unintentionally walking through the train to the Twelfth street car, which latter was separated from the train after reaching Oakland, he was carried to Twelfth and Broadway, and as no transfer was given for the Leona Heights car, he was then forced to pay an additional 5-cent fare in order to go to

Fourteenth street and Forty-first avenue on the Leona Heights car. If defendant has been operating its train in such a manner that such a mistake is a common occurrence, we should feel that it might be necessary to order some steps to be taken to protect the traveling public from having to pay an extra fare under these conditions; but Mr. George H. Harris, defendant's general superintendent, testified that it was the rule of the company that the door of the Twelfth street car should be locked so that passengers could not pass from the Twenty-second street car to the Twelfth street car, and, apparently, complainant's statement at the hearing was the first notice defendant had received of such a mistake having occurred.

In our opinion the evidence failed to show that the traveling public has suffered any material inconvenience from defendant's failure to give tickets or transfers to such of its passengers as desire to take the Leona Heights car from Twenty-second street to Forty-first avenue; while, as Mr. Harris pointed out, only a small proportion of its passengers on the Twenty-second street line take the Leona Heights car, and there might be some difficulty in providing each of these passengers with a transfer. Complainant and intervener have also failed to support their contentions that the existing rates are unreasonable or excessive, or that defendant should be required to establish a through commutation rate between San Francisco and Beulah Heights or Leona Heights.

We are of the opinion that the case should be dismissed.

ORDER.

A public hearing having been held in the above-entitled proceeding and the proceeding having been submitted and being now ready for decision, and it appearing for the reasons set forth in the foregoing opinion that the complaint should be dismissed,

It is hereby ordered that the complaint in the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 26th day of December, 1916.

DECISION No. 3950.

IN THE MATTER OF THE APPLICATION OF BEVERLY HILLS UTILITIES COMPANY FOR AN ORDER EXTENDING TIME FOR COMPLIANCE WITH CHAPTER 499, LAWS OF 1911, AS AMENDED BY CHAPTER 600, LAWS OF 1915.

Application No. 2380.

Decided December 26, 1916.

REPORT OF THE COMMISSION.
FIRST SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that the first paragraph of the order of September 26, 1916, in the above-entitled proceeding be and the same is hereby amended to read as follows:

"1. The time within which petitioner shall reconstruct its existing system so as to comply completely with the provisions of chapter 499, Laws of 1911, as amended by chapter 600, Laws of 1915, is hereby extended to and including June 30, 1917, on condition that at least one-half of the work of reconstruction necessary to be done, in matters other than the street lighting system in the city of Beverly Hills, shall be completed on or before December 31, 1916, and the entire work, including such work as it may be necessary to do on the street lighting system in the city of Beverly Hills, on or before June 30, 1917."

In all other respects the order of September 26, 1916, in the above-entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this 26th day of December, 1916.

DECISION No. 3951.

IN THE MATTER OF THE APPLICATION OF THE HANFORD WATER COMPANY FOR ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 2644.

Decided December 26, 1916.

Applicant authorized to issue \$27,500.00 of its capital stock, such stock to be sold at not less than par, proceeds to be used for additions, to discharge indebtedness and to reimburse treasury for capital expenditures heretofore made. The replacing of wornout pipe is not a capital charge but should be covered by depreciation fund. Applicant to issue \$2,500.00 par value of stock for such purpose denied.

F. N. Isaac, for Applicant.

REPORT OF THE COMMISSION.

The Hanford Water Company asks authority to issue \$30,000.00 of its stock at par and of the proceeds use \$13,200.00 for improvements to its system, \$10,700.00 to reimburse its treasury for betterments paid from income, and \$6,100.00 to pay indebtedness.

Applicant has an authorized capital stock of \$200,000.00, divided into 20,000 shares of the par value of \$10.00 each, of which 16,350 shares have been issued. It now wishes to issue 3,000 additional shares to be sold at par to its stockholders in proportion to their present holdings of its stock and use the proceeds for the purposes above mentioned.

Applicant heretofore created a bonded indebtedness of \$100,000.00 and issued \$60,000.00 par value of its bonds, which have heretofore been retired and cancelled. The remaining \$40,000.00 of bonds are in its treasury unissued. In retiring said \$60,000.00 of bonds applicant's stockholders advanced \$47,000.00 and the commission later authorized the issue of 4,700 shares of applicant's stock at par on account thereof, by its Decision No. 829 of July 29, 1913. (See Opinions and Orders of the Railroad Commission of California, Vol. 3, page 177.)

Applicant is engaged in the business of producing and distributing water for domestic and industrial uses to the inhabitants of Hanford, a city with an estimated population of 6,500. Its business shows a steady, healthy increase, some 50 services having been added during the last year. It now serves 1,462 consumers. For a number of years it has regularly paid dividends of 5 per cent and 6 per cent, besides earning a surplus.

The increasing demands upon applicant's system makes it necessary to replace 7,200 feet of 3-inch mains and 600 feet of 4-inch mains with 2,200 feet of 12-inch mains and 6,400 feet of 8-inch mains, which with the necessary valves, fittings and labor of installation it estimates will cost \$13,008.00. Its plans and estimates have been examined by the commission's engineers and found satisfactory in their judgment.

The estimated original cost of the pipe replaced is about \$2,500.00. To this extent the proposed construction should be financed through a depreciation fund rather than through a stock issue, and the stock authorized will be reduced accordingly.

During the past five years applicant has installed betterments and extensions for which it has paid from income \$10,700.00, for which it wishes to now issue stock and reimburse its treasury. Vouchers for these expenditures have been checked and found satisfactory by the commission's engineers.

By its Decision No. 2417 of May 24, 1915, the commission authorized applicant to issue two notes to First National Bank of Hanford in the

amounts of \$5,850.00 and \$2,250.00, respectively, each bearing interest at 8 per cent per annum. (See Opinions and Orders of the Railroad Commission of California, Vol. 6, page 1066.) On each of these notes \$1,000.00 has been paid, leaving the balance due respectively \$4,850.00 and \$1,250.00; both of which notes applicant now wishes to pay from the proceeds of the proposed issue of stock.

ORDER.

The Hanford Water Company having applied to the Railroad Commission for authority to issue 3,000 shares of its capital stock at the par value of \$10.00 per share, and to use the proceeds thereof for the purpose of improving its facilities and service, for discharging its obligations, and for reimbursing its treasury for moneys expended from income, a public hearing having been held thereon, and the commission being of the opinion that the money to be procured by the issue of stock herein authorized is reasonably required for the purposes specified, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered by the Railroad Commission of the state of California that The Hanford Water Company be and it is hereby authorized to issue 2,750 shares of its capital stock at the par value of \$10.00 per share and use the proceeds of the sale thereof for the following purposes and in the following amounts:

1. For the extension or improvement of its facilities or service, by laying 2,200 feet of 12-inch mains and 6,400 feet of 8-inch mains, with necessary valves and fittings, \$10,700.00.

2. For the reimbursement of its treasury for moneys expended from income for the extension or improvement of its facilities and service, \$10,700.00.

3. For the discharge of its obligations, \$6,100.00, said obligations being evidenced by two notes with interest at 8 per cent in favor of First National Bank of Hanford as payee, one dated November 15, 1915, for \$5,850.00 on which \$1,000.00 of principal has heretofore been paid, and one dated November 1, 1915, for \$2,250.00, on which \$1,000.00 of principal has heretofore been paid.

The authority hereby granted is upon the following conditions:

1. The stock herein authorized shall be issued at not less than the par value thereof net to applicant.

2. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale and the

moneys realized therefrom, and the use and application of such moneys, all in accordance with the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. The authority hereby granted shall apply only to such capital stock as may have been issued on or before February 15, 1917.

Dated at San Francisco, California, this 26th day of December, 1916.

DECISION No. 3952.
ALFRED N. WAITE ET AL.
vs.
GRIZZLY ELECTRIC COMPANY.

Case No. 942.

Decided December 26, 1916.

Complaint alleging that the electric rates of defendant serving energy in the town of Portola are excessive and discriminatory: 1. The owner of defendant's plant claims an allowance of \$1,800.00 annually as manager's salary; for a system with an annual gross revenue of approximately \$3,500.00 the sum of \$240.00 per annum for bookkeeping and collecting and \$200.00 per annum for manager's services are held to be a fair allowance; 2. Revenues for the year 1916 will barely exceed operating expenses; however, the present spread of rates is found to be unduly burdensome on certain classes of consumers and accordingly discriminatory. Revised schedule established to become effective December 15, 1916.

A. N. Waite, for Complainants.

L. H. Hughes, for Defendant.

REPORT OF THE COMMISSION.

This is the complaint of Alfred N. Waite and other citizens of the town of Portola, Plumas County, California, alleging that the rates charged by the Grizzly Electric Company are excessive, and that discriminatory practices exist.

In its answer to the complaint defendant denies that the rates are excessive or that discrimination exists.

The Grizzly Electric Company is owned and operated by Mr. R. B. Young. The plant was placed in operation in December, 1914, energy being generated by a 50-kilowatt, 133-cycle, 1,100-volt, single-phase generator, belt driven by a 50-horsepower Fairbanks Morse oil engine. Energy is delivered to the distribution system at generator voltage, the secondary voltage being 110 volts for lighting service. The plant is intended primarily to furnish lighting and all-night service is given. It appears from the evidence that this plant was constructed largely by Mr. R. B. Young personally and no complete records of the labor and cost are available. It was agreed at the hearing that a valuation, to be

made at a later date by an engineer of this commission, would be acceptable to both parties, and should be admitted in evidence. The valuation was made by the Gas and Electric Department of this commission and submitted subsequent to the hearing. A tabulation of this valuation is as follows:

Estimated Historical Reproduction Cost of Electric Properties Grizzly Electric Company.

C- 7 Power plant buildings and general structures.....	\$559 00
C-12 Gas power plant equipment.....	3,668 00
C-13 Miscellaneous production equipment.....	50 00
C-14 Poles and fixtures.....	523 00
C-15 Overhead system.....	260 00
C- 20 Line transformers and devices.....	215 00
C-21 Electric services.....	166 00
C- 23 Electric street lighting system.....	59 00
Contingencies and general overhead.....	500 00
Total capital invested.....	\$6,000 00

The engineers of the commission have investigated the cost of operating defendant's electric plant, and estimate a normal year's operating expense as follows:

Normal Year's Operating Expenses of Grizzly Electric Company.

E-1 to E-23 Production expense and repairs to capital:	
Fuel.....	\$2,000 00
Labor.....	900 00
Rent of land.....	12 00
Rent generator.....	120 00
Repairs.....	120 00
	\$3,152 00
E-24 to E-59 Distribution expense and repairs to capital:	
Pole line labor.....	\$120 00
Pole line material.....	20 00
	\$140 00
E-60 to E- 65 Commercial department labor, supplies and expenses:	
Collecting and bookkeeping.....	\$240 00
Printing and supplies.....	10 00
	\$250 00
E-66 to E-68 Salaries and expenses of general offices:	
General manager salary.....	\$200 00
E-69 to E-76 Miscellaneous general expenses:	
Insurance.....	\$107 25
Total operating expenses (exclusive of taxes and depreciation).....	\$3,849 25

Mr. Young charged to operation the sum of \$1,800.00 per annum for manager's salary. Inasmuch as the total operating expenses, exclusive of taxes and depreciation, are only \$3,849.00 and the gross revenue for

the year 1915 was only \$3,546.59, this charge is disproportionate. Furthermore, only a small portion of Mr. Young's time is given to the operation of the plant. An allowance in the operating expenses has been made in the sum of \$240.00 for collecting and bookkeeping. The amount of bookkeeping necessary to be done is practically negligible and the time necessary for collecting should be very slight.

Under the circumstances we believe that an additoinal allowance of \$200.00 per annum for services as manager is sufficient allowance in an estimation of operating expenses.

Gross revenue for the year of 1915 was \$3,546.59, including a small amount for jobbing which can not be segregated. Revenue for the year 1916 is estimated to be \$3,900.00, exclusive of jobbing. This is but slightly in excess of the estimated annual operating expense, not including taxes or a depreciation annuity.

The present rates charged by the Grizzly Electric Company are:

Present Rates Grizzly Electric Company.

Stores.

40-watt lamps	Per month
1 to 4.....	\$0 85 each
5 to 14.....	75 each
15 to 29.....	70 each
30 to 49.....	65 each
50 to 74.....	60 each
75 or more.....	50 each

Discount of 10 cents for each 40-watt lamp.

Residences.

40-watt lamps	Per month
1.....	\$1 10 each
2.....	85 each
3.....	76 each
4.....	70 each
5.....	64 each
6 to 15.....	60 each
15 to 30.....	55 each
30 or more.....	50 each

Discount of 10 cents for each 40-watt lamp.

Optional Meter Rate.

Meter rate	20 cents per kilowatt hour
Discount	2 cents per kilowatt hour

Minimum meter bill, \$12.00 per month.

Discounts are available only when bills are paid at the office on or before the sixteenth of each succeeding month.

It is apparent from the foregoing that the estimated revenue for the year 1916 will exceed only slightly the operating expense, exclusive of taxes, and practically nothing will be earned to cover interest and depreciation upon the property. It, therefore, appears that the rates charged by the Grizzly Electric Company are not excessive as a whole,

although they appear to be as high as can be charged without tending to decrease the gross revenue due to their exceeding the value of the service.

It is our opinion from the evidence, however, that the rates are not such as will encourage greater use nor will equalize the expense between the various consumers in proportion to their service, and to that extent the present rates are discriminatory.

The commission believes that the rates which are made effective in the following order will encourage a greater use of electric energy in the territory, so that the company may be able to increase its revenue. At the same time the commission also believes that the following rates will more equally divide the expense between the various classes of service.

ORDER.

A public hearing having been held in the above entitled proceeding, and said proceeding having been submitted and now being ready for decision,

The commission hereby finds as a fact that the existing rates of the utility are not excessive, but are unjust in that they are discriminatory and do not equitably divide the charges between the various classes of consumers.

The commission hereby further finds as a fact that the following rates are just and reasonable.

Basing its order on the foregoing findings of fact,

It is hereby ordered that the Grizzly Electric Company, from and after December 15, 1916, charge and collect for electric energy sold by it in the town of Portola the following rates:

Commercial Rate.

1st light	\$1 00 per month
2d light	90 per month
3d light	80 per month
4th light	70 per month
5th light	60 per month
6th light and over, each	50 per month

Residence Rate.

1st light	\$0 90 per month
2d light	70 per month
3d light	50 per month
4th light and over, each	30 per month

Hotel or Lodging House Rate.

Lights in bedrooms, each	\$0 40 per month
Other lights, same as commercial rate.	

Public Lighting Rate.

Street lights, each	\$1 65 per month
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Other Rates.

Porch or house light burning continuously while plant is running, each	\$1 65 per month
Flat iron, each	50 per month
Above rates to be figured upon 40-watt lamp basis.	

Optional Meter Rate.

First 30 kilowatt hours	\$0 20 per kilowatt hour
Second 30 kilowatt hours	15 per kilowatt hour
All over 60 kilowatt hours	10 per kilowatt hour
Minimum charge: Commercial	\$6 00 per month
Residence	3 00 per month

It is further ordered that Grizzly Electric Company shall file with the Railroad Commission within twenty (20) days from the date of this order a schedule of rates as herein set forth, and that the rates herein established shall be effective on and after December 15, 1916.

Dated at San Francisco, California, this 26th day of December, 1916.

Decisions Nos. 3953, 3954, 3955, 3956, 3957, 3958, grade crossings; not printed.
See end of volume.

DECISION No. 3959.

IN THE MATTER OF THE APPLICATION OF SUNSET TELEPHONE AND TELEGRAPH COMPANY AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING SUNSET TELEPHONE AND TELEGRAPH COMPANY TO SELL TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY THE ENTIRE PROPERTY OF SUNSET TELEPHONE AND TELEGRAPH COMPANY IN THE STATE OF CALIFORNIA, AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE AND ACQUIRE THE SAME.

Application No. 2304.

Decided December 29, 1916.

Sunset Telephone Company, owning all "Bell" telephone systems in the state of California, with the exception of the system in the city and county of San Francisco, all of which systems are leased to Pacific Company, is authorized to transfer all of its property and franchises, excepting its corporate franchise, to The Pacific Company for the nominal sum of \$10.00.

Pillsbury, Madison & Sutro, by *H. D. Pillsbury*, and *James T. Shaw*, for Petitioners.

REPORT OF THE COMMISSION.

THELEN and **GORDON**, *Commissioners*.

Sunset Telephone and Telegraph Company, hereinafter referred to as the Sunset Company, asks authority to sell its entire property in the state of California to The Pacific Telephone and Telegraph Com-

pany, hereinafter referred to as the Pacific Company, and the Pacific company asks authority to acquire said property.

The petition alleges, in effect, that the Sunset company is a California corporation which owns a general telephone and telegraph system extending generally throughout the state of California, except in the city and county of San Francisco, and elsewhere; that the Pacific company is a California corporation which is engaged in doing a general telephone and telegraph business throughout the state of California and elsewhere; that the property of Sunset company was leased to the Pacific company on January 2, 1907, and that ever since said date said property has been and is now operated by the Pacific company as a telephone and telegraph system; that the Pacific company owns a telephone plant and system in the city and county of San Francisco and operates it together with said property of the Sunset company as one telephone and telegraph system; that the Sunset company has outstanding capital stock of the par value of fifteen million dollars, all being owned by the Pacific company, and that the Sunset company has no indebtedness except to the Pacific company; that the Sunset company desires to sell its entire property, except its corporate franchise, to the Pacific company for the sum of ten dollars and that the Pacific company desires to acquire the property for said consideration; that the purpose of the proposed sale is to enable the Pacific company, which now operates all of said property, to become the owner thereof, so that the company owning the property may be the same company as the one which is charged with the responsibility of managing and operating it; that it is impossible to state the original cost of the Sunset company's property; and that an inventory and appraisal of the property of the Sunset company in the state of California is being made in connection with Application No. 1870, filed by the Pacific company. Petitioners ask that the Railroad Commission make its order authorizing the Sunset company to sell its entire property in the state of California, except its corporate franchise, to the Pacific company and authorizing the Pacific company to acquire the property.

A public hearing was held in San Francisco on December 18, 1916. No one appeared in opposition to the granting of the petition.

The Sunset company is the owner of the entire so-called "Bell" telephone and telegraph system in the state of California, with the exception of the system in the city and county of San Francisco, which property is owned by the Pacific company. The Sunset company also owns a telephone and telegraph system in the southern portion of Oregon and in the western portion of Washington.

On January 2, 1907, the Sunset company entered into an agreement with the Pacific company, under which agreement the Sunset company

leased to the Pacific company for the term of thirty years from and after January 2, 1907, the Sunset company's entire real and personal property used in connection with its telephone and telegraph system in the states of California, Washington and Oregon. The Pacific company agreed to pay to the Sunset company during each of the first ten years of the term of the lease the sum of \$60,000.00 annually, during each of the second ten years of the term of the lease the sum of \$75,000.00, and during each of the last ten years of the term of the lease the sum of \$100,000.00 annually, and to pay during each year of the term of the lease the interest upon all outstanding bonds of the Sunset company. The Pacific company agreed, at its own cost and expense, to properly maintain and operate the property leased and to make extensions and improvements thereto when necessary, and to pay all taxes and other charges and, at the expiration of the term of the lease, to surrender the property, together with all improvements and extensions, to the Sunset company, its successors and assigns, in as good condition as when received. At the time this lease was executed and at all times subsequent thereto, the Pacific company owned the entire issued capital stock of the Sunset company.

On October 17, 1907, a supplemental lease was entered into between the same parties, which lease corrected the property description of the Sunset company contained in the first lease by adding thereto all the rights, privileges and franchises of the Sunset company, except its corporate franchise.

The property of the Sunset company which was leased to the Pacific company and which is now to be conveyed to the Pacific company included all franchises and permits granted by public authorities to the Sunset company or its predecessors. Copies of these franchises and

permits, in so far as they pertain to the state of California, may be summarized as follows:

Granting public authority	Number of ordinance or resolution	Date of passage	Term
Anaheim	Ord. No. 112	Dec. 10, 1895	25 years
Arcata	Ord. No. 81	Feb. 8, 1896	25 years
Auburn	Ord. No. 39	Apr. 6, 1892	
County of Kern	Ord. No. ..	Feb. 11, 1893	
Boulder Creek	Ord. No. 15	Sept. 2, 1902	50 years
Chico	Ord. No. *6	Mar. 23, 1892	25 years
Colusa		May 8, 1894	25 years
Corona	Ord. No. 24	Apr. 17, 1897	25 years
Escondido	Ord. No. 92	May 18, 1897	25 years
Grass Valley		Nov. 9, 1894	25 years
Hollister	Ord. No. 127	Nov. 4, 1895	25 years
Madera	Ord. No. 22	June 6, 1895	25 years
Marysville		May 2, 1892	25 years
Merced	Ord. No. 47	July 18, 1895	25 years
Modesto	Ord. No. 156	Sept. 19, 1895	25 years
Monrovia	Ord. No. 57	Sept. 3, 1892	25 years
Napa	Ord. No. 276	Jan. 20, 1896	25 years
National City	Ord. No. 131	May 19, 1897	25 years
Nevada City	Ord. No. 117	Nov. 30, 1894	25 years
El Paso de Robles	Ord. No. 21	July 19, 1892	25 years
Petaluma	Ord. No. 94	Apr. 18, 1891	25 years
Petaluma	Ord. No. 211	Apr. 15, 1901	25 years
County of El Dorado	Ord. No. 45	July 8, 1896	25 years
Red Bluff	Ord. No. 66	Jan. 8, 1895	25 years
Redding	Ord. No. 31	June 14, 1894	25 years
Redondo Beach	Ord. No. 53	Sept. 18, 1896	25 years
Redwood City		June 21, 1892	
Rocklin	Ord. No. 39	Feb. 27, 1905	25 years
San Bernardino	Ord. No. 109	May 10, 1892	25 years
Sacramento	Ord. No. 305	Oct. 31, 1892	50 years
San Diego	Ord. No. 32	Nov. 29, 1886	30 years
San Diego	Ord. No. 36	Dec. 13, 1886	
San Diego	Ord. No. 363	Apr. 16, 1896	30 years
San Jacinto	Ord. No. 69	Feb. 3, 1903	25 years
San Luis Obispo	Ord. No. 73	Nov. 19, 1894	25 years
San Mateo	Ord. No. 25	Dec. 21, 1905	25 years
San Jose		Nov. 30, 1881	
San Pedro	Ord. No. 135	July 16, 1896	25 years
San Rafael	Ord. No. 278	Sept. 6, 1892	25 years
Santa Clara	Ord. No. 211	Jan. 4, 1904	25 years
Santa Cruz	Ord. No. 74	Feb. 19, 1883	50 years
Santa Monica	Ord. No. 255	July 6, 1896	25 years
Stockton	Ord. No. 84	Apr. 25, 1892	25 years
Ukiah	Ord. No. 85	May 3, 1897	25 years
Vacaville	Ord. No. 56	Oct. 6, 1896	25 years
Visalia	Ord. No. 89	Aug. 12, 1896	25 years
Visalia	Ord. No. 95	Mar. 17, 1897	25 years
Watsonville	Ord. No. 64	May 17, 1892	25 years

*1890.

We do not mean by listing the above franchises and permits to pass in any way upon their legality.

The Sunset company also claims rights under section 536 of the Civil Code of this state, which rights it desires to assign to the Pacific company.

The Sunset company's issued capital stock consists of fifteen million dollars, par value, of common stock, all owned by the Pacific company. The Sunset company also has outstanding seventeen million dollars, face value, of gold notes made payable to and owned by the Pacific company. These notes were executed by the Sunset company, from time to time, as the Pacific company made additions to the Sunset company's property and together with the capital stock of the Sunset company, have been pledged with Mercantile Trust Company of San Francisco as additional security under an authorized bond issue of the Pacific company of the total authorization of thirty-five million dollars. The Sunset company has no indebtedness other than the gold notes heretofore referred to. Exhibit No. 3 of petitioners herein shows that the issued common stock and the gold notes of the Sunset company are carried on the books of the Pacific company as without book value, and that these securities do not "have any value except as additional collateral issued to protect the interests of the Mercantile Trust Company of San Francisco."

On May 31, 1916, on which day the Sunset company ceased to act as an operating company, all ledger balances other than the capital stock and the gold notes were closed and the amounts transferred to the books of the Pacific company.

The entire property of the Sunset company, including all additions and betterments, except with reference to the Tacoma, Washington, exchange plant, appears on the books of the Pacific company as an asset. It is impossible to segregate this property on the books of the Pacific company from the property owned by the Pacific company directly.

If the order herein asked for is granted, no change will be made on the books of the Pacific company except that reference to the capital stock and bonds of the Sunset company will be eliminated as soon as the Sunset company has been disincorporated. The property now owned by the Sunset company will be substituted under the mortgage of the Pacific company for the capital stock and gold notes of the Sunset company now pledged to Mercantile Trust Company of San Francisco.

The transfer of the property of the Sunset company to the Pacific company, as herein proposed, is, in our opinion, in the interest of simplicity and economy, and we recommend that the petition be granted.

We submit the following form of order :

ORDER.

Sunset Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company having filed herein their petition as set forth in the opinion which precedes this order, and a public hearing having been held thereon, and this proceeding having been submitted and being now ready for decision,

It is hereby ordered that Sunset Telephone and Telegraph Company be and the same is hereby authorized to sell and convey to The Pacific Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company is hereby authorized to acquire, for the consideration of ten dollars (\$10.00), the entire telephone plant, exchanges and systems of Sunset Telephone and Telegraph Company in the state of California, including all real estate, easements, rights of way, leases, plants, buildings, improvements, machinery, implements, appliances, poles, cross-arms, cables, wires, booths and fittings, together with all rights and interests, accounts and bills receivable, moneys in bank, cash on hand and all franchises, permits and other rights granted by public authority in the state of California, together with all other property of whatsoever kind and nature, save and except the corporate franchise of Sunset Telephone and Telegraph Company.

Within thirty (30) days after the execution of deed of conveyance, The Pacific Telephone and Telegraph Company shall file herein a certified copy thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3960.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 401 OF THE CITY OF RICHMOND.

Application No. 2587.

Decided December 29, 1916.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of Richmond, and permitting the construction and operation of a telephone and telegraph system in said city.

Pillsbury, Madison & Sutro, by H. D. Pillsbury, and James T. Shaw,
for Applicant.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners.*

This is a petition by The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asking that the Railroad

Commission make its order declaring that public convenience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 401 of the city of Richmond, adopted April 10, 1916.

A public hearing herein was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the petition.

On February 14, 1916, the Pacific company filed with the city of Richmond a petition asking that the city council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 401 of the city of Richmond, adopted on April 10, 1916, grants to the Pacific company, its successors and assigns, for a period of forty-one years from and after the date of the passage of the ordinance, the right to do a general telephone and telegraph business within the city of Richmond and, in general, to construct, operate and maintain a telephone and telegraph system on and along the public streets and other public places of the city of Richmond.

Ordinance No. 401 contains provisions with reference to the construction by the Pacific company of conduits, changes in position of poles or conduits due to changes in grade of streets or other street improvements, the erection and removal of poles and the placing of wires underground, no sale of the property erected under the franchise unless the city's consent has first been secured, the usual provisions of the Broughton Act with reference to the payment to the city of a percentage of the gross earnings of the grantee under the franchise, the free use by the city of Richmond, for exchange service, of twenty individual line telephones, the free use by the city of Richmond, where aerial construction exists, of a fixture on the tops of poles and where underground conduits exist, of a duct of two pairs of wires in the underground cable for low tension police and fire alarm purposes, for necessary excavations in the public streets, and for indemnification of the city of Richmond by the grantee of the franchise for claims, damages and losses caused to the city by the grantee's construction in the public streets.

The ordinance provides a procedure by which the city of Richmond may, at the expiration of the term of the franchise, purchase the grantee's telephone system and plant in the city of Richmond.

The ordinance contains other provisions to which it is not necessary now to refer.

The Pacific company and its predecessors have been operating a telephone system in the city of Richmond since the year 1903 or thereabouts, without franchise from the city. The Pacific company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights granted by Ordinance No. 401. The failure to make such application to the Railroad Commission was due to the

belief of the officials of the telephone company that such application was not necessary.

We recommend that the petition be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition herein asking that the Railroad Commission make its order as specified in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully advised,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 401 of the city of Richmond, adopted on April 10, 1916, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it or they will never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 401 of the city of Richmond, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3961.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE BY SAID COMPANY OF THE ENTIRE ISSUED CAPITAL STOCK OF RIVERSIDE HOME TELEPHONE AND TELEGRAPH COMPANY.

Application No. 2622.

Decided December 29, 1916.

Pacific Company authorized to purchase the entire outstanding issue of capital stock of the Riverside Company, provided it shall agree that the price paid therefor shall never be claimed as representing for rate fixing or other purposes the fair value of the property of the Riverside Company, and also that it shall charge against its surplus the entire cost of acquiring such stock.

Pillsbury, Madison and Sutro, by *H. D. Pillsbury*, and *James T. Shaw*, for Petitioner.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners*.

The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asks authority to acquire the entire issued capital stock of Riverside Home Telephone and Telegraph Company, hereinafter referred to as the Riverside Company. Both corporations are incorporated under the laws of California.

The petition alleges that the Pacific company desires to acquire from J. E. Fishburn 2,378½ shares of the capital stock of the Riverside company at such prices as may be agreed upon between petitioner and Mr. Fishburn. The Pacific company agrees that the price to be paid for said shares of capital stock will not be claimed by it before the Railroad Commission or any other public authority as representing for rate fixing, or any other purpose, the fair value of the property of the Riverside company. A stipulation to this effect by the Pacific company is on file herein.

A public hearing on this application was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the petition.

The affairs of the Riverside company and of the Pacific company in so far as its Riverside business is affected, were carefully investigated by this commission in Application No. 2174, being an application by the Riverside company for authority to sell its property to the Pacific company and of the Pacific company for authority to acquire said property. Reference is hereby made to the opinion and order made on November 6, 1916, in Application No. 2174.

The Pacific company has acquired the entire issue of bonds of the Riverside company of the face value of \$275,000.00, with the exception of one bond of the face value of \$500.00. The Pacific company represents that it paid for these bonds the sum of \$168,253.44.

In February, 1913, Pacific States Telephone and Telegraph Company, a public utility telephone company, the capital stock of which was owned by the Pacific company, undertook to acquire the controlling interest in the Riverside company's capital stock. Through what the Pacific company now alleges was an unintentional oversight, the Railroad Commission's consent was not asked for or secured, as provided by section 51 (b) of the Public Utilities Act. Hence, the title to this capital stock has never passed, as a matter of law, from Mr. J. E. Fishburn, at that time the owner thereof. The Pacific company reports that it paid for the capital stock of the Riverside company the sum of \$75,325.00, and that it paid, through the instrumentality of Pacific

States Telephone and Telegraph Company, an assessment on said stock amounting to \$20,217.25, making a total of \$95,542.25 paid for this stock directly and as an assessment. On December 29, 1915, Pacific States Telephone and Telegraph Company purported to sell this stock to Bell Telephone Company of Nevada, another "Bell" concern, and the stock now appears on the books of the Bell Telephone Company of Nevada as an "investment security." The money to purchase this capital stock was advanced by the Pacific company. It is now proposed to secure the necessary order to legalize the transfer of this stock to the Pacific company. The Pacific company then proposes to disincorporate the Riverside company and charge against its surplus the amount paid for the capital stock of the Riverside company, amounting to \$95,542.25. In view of the fact that there is no value to the property of the Riverside company in excess of the face value of its bonds, even if value exists to that extent, as shown in the decision of November 6, 1916, made in said Application No. 2174, it will be entirely proper for the Pacific company to charge against its surplus the entire cost of acquiring the capital stock of its competitor in Riverside.

We recommend that the application be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition asking authority to purchase and acquire the entire issued capital stock of Riverside Home Telephone and Telegraph Company, and a public hearing having been held and this proceeding having been submitted and being now ready for decision,

It is hereby ordered that The Pacific Telephone and Telegraph Company be and the same is hereby authorized to acquire the entire issued capital stock of Riverside Home Telephone and Telegraph Company on the following conditions and not otherwise, to wit:

1. As agreed to in the petition and stipulation of The Pacific Telephone and Telegraph Company on file herein, said company, its successors and assigns, will never claim before the Railroad Commission or any other public authority that the amount to be paid by The Pacific Telephone and Telegraph Company for said capital stock of Riverside Home Telephone and Telegraph Company represents for rate fixing, or for any other purpose, the fair value of the property of Riverside Home Telephone and Telegraph Company or any part thereof.

2. The Pacific Telephone and Telegraph Company shall charge against its surplus the entire cost of acquiring the capital stock of Riverside Home Telephone and Telegraph Company and shall, within

ten days after the necessary entry or entries have been made on its books, notify the Railroad Commission to that effect.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3962.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 83 OF THE CITY OF SOUTH SAN FRANCISCO.

Application No. 2627.

Decided December 29, 1916.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of South San Francisco permitting the construction and operation of a telephone system in said city.

Pillsbury, Madison & Sutro, by *H. D. Pillsbury*, and *James T. Shaw*, for Petitioner.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners*.

This is a petition by The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 83 of the city of South San Francisco, adopted on July 6, 1915.

A public hearing herein was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the petition.

On May 7, 1915, the Pacific company filed with the city of South San Francisco a petition asking that the city council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 83 of the city of South San Francisco, adopted July 6, 1915, grants to the Pacific company, its successors and assigns, for a period of twenty-five years from and after the date of the passage of the ordinance, the right to do a general telephone and telegraph business within the city of South San Francisco and, in general, to construct, operate and maintain a telephone and telegraph system on

and along the public streets and other public places of the city of South San Francisco.

Ordinance No. 83 contains provisions with reference to the use of the streets by the grantee of the franchise and construction thereon, including excavations therein, changes in construction due to street improvements, the free use by the city of South San Francisco of the poles and underground conduits of the grantee, to the extent indicated, for low tension police and fire alarm purposes, the free use of three telephones by the city of South San Francisco, the filing of a bond by the grantee of the franchise and the payment by the grantee, its successors and assigns, to the city of South San Francisco of a percentage of the grantee's gross annual receipts arising from the use of the franchise, as provided by the Broughton Act.

The ordinance contains other provisions to which it is not necessary here to refer.

The Pacific company and its predecessors have been operating for many years in the territory included within the corporate limits of the city of South San Francisco, but this is the first franchise granted for this purpose. The Pacific company has no competition in the city of South San Francisco. The Pacific company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing the exercise by it of the rights granted by Ordinance No. 83. The failure to make such application to the Railroad Commission was due to the belief of the officials of the telephone company that such application was not necessary.

We recommend that the petition be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition herein asking that the Railroad Commission make its order as specified in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully advised,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 83 of the city of South San Francisco, adopted on July 6, 1915, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it or they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 83 of the city of South

San Francisco, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3963.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 30, NEW SERIES, OF THE CITY OF ALAMEDA.

Application No. 2633.

Decided December 29, 1916.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of Alameda permitting the construction and operation of a telephone system in said city.

Pillsbury, Madison & Sutro, by H. D. Pillsbury, and James T. Shaw, for Petitioner.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners.*

This is a petition by The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 30, New Series, of the city of Alameda, adopted on February 2, 1915.

A public hearing herein was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the petition.

On November 16, 1914, the Pacific company filed with the city of Alameda a petition asking that the city council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 30, New Series, of the city of Alameda, adopted on February 2, 1915, grants to the Pacific company, its successors and assigns, for a period of forty-one years from and after December 22,

1914, the right to do a general telephone and telegraph business within the city of Alameda and, in general, to construct, operate and maintain a telephone and telegraph system on and along the public streets and other public places of the city of Alameda.

Ordinance No. 30, New Series, contains provisions with reference to the construction and removal of overhead and underground construction on and in the streets of the city of Alameda, changes in construction due to street improvements, the placing of wires underground, no sale of the property without the consent of the city of Alameda, the payment to the city of Alameda of a percentage of the gross revenue derived by the grantee, its successors and assigns, from operation under the franchise, as provided by the Broughton Act, the supply to the city of Alameda for public business of thirty-five free telephones, the use of overhead and underground construction for the fire alarm and police telephone and telegraph systems of the city of Alameda to the extent indicated and the indemnification by the grantee of the city of Alameda from claims, damages and losses.

The ordinance contains provisions by which the city of Alameda may at the expiration of the term of the franchise acquire the property constructed thereunder at a price to be specified in the manner set forth in the ordinance.

The ordinance contains other provisions to which it is not necessary here to refer.

The predecessors of the Pacific company operated a telephone and telegraph system in the city of Alameda under a 25-year franchise, which expired several years prior to the passage of Ordinance No. 30, New Series. The public authorities of the city of Alameda directed the Pacific company to apply for a new franchise and Ordinance No. 30, New Series, is the result of such application.

The Pacific company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing the exercise by it of the rights granted by Ordinance No. 30, New Series, the failure to make such application to the Railroad Commission being due to the belief of the officials of the telephone company that such application was not necessary.

We recommend that the petition be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition herein asking that the Railroad Commission make its order as specified in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully advised,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 30, New Series, of the city of Alameda, adopted on February 2, 1915, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it or they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 30, New Series, of the city of Alameda, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3964.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NUMBER TWO HUNDRED AND EIGHT OF THE CITY OF WOODLAND.

Application No. 2635.

Decided December 29, 1916.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of Woodland permitting the construction and operation of a telephone system in said city, provided a stipulation shall be filed to the effect that no value shall ever be claimed for such franchise in excess of the actual cost thereof.

Pillsbury, Madison & Sutro, by H. D. Pillsbury, and James T. Shaw, for Petitioner.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners.*

This is a petition by The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asking that the Railroad Commission make its order declaring that public convenience and neces-

sity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 208 of the city of Woodland, adopted on August 3, 1914.

A public hearing herein was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the application.

An earlier franchise granted to the predecessors of the Pacific company for operation within Woodland expired on December 5, 1913. Thereafter, the Pacific company filed with the board of trustees of Woodland a petition asking that the board of trustees advertise and sell to the highest bidder a new telephone and telegraph franchise.

Ordinance No. 208 of the city of Woodland, adopted on August 3, 1914, grants to The Pacific Telephone and Telegraph Company, its successors and assigns, for the term of twenty-five years after the date of the passage of the ordinance, the right to do a general telephone and telegraph business within the city of Woodland and, in general, to construct, operate and maintain a telephone and telegraph system on and along the public streets and other places of the city of Woodland.

Ordinance No. 208 of the city of Woodland contains provisions with reference to the use of the streets, and the making of excavations therein, the improvement of the streets, the removal of overhead construction, the use of overhead and underground construction for low tension police and fire alarm purposes in the city of Woodland to the extent indicated in the ordinance, and the payment by the grantee of the franchise, its successors and assigns, of a percentage of the gross revenue resulting from the operation under the franchise, as provided by the Broughton Act.

Section 14 of the ordinance contains provisions for the acquisition by the city of Woodland of the local business of the Pacific company, its successors and assigns, and the property in connection therewith.

The ordinance provides that the rights and privileges granted therein shall not be exclusive. The ordinance contains other provisions to which it is not necessary now to refer.

The Pacific company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights granted by Ordinance No. 208. The failure to make such application to the Railroad Commission was due to the belief of the officials of the telephone company that such application was not necessary.

We recommend that the application be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition herein asking that the Railroad Commission make its order as

specified in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully advised,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 208 of the city of Woodland, adopted on August 3, 1914, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it or they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 208 of the city of Woodland, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3965.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 229, NEW SERIES, OF THE CITY OF VALLEJO.

Application No. 2640.

Decided December 29, 1916.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of Vallejo permitting the construction and operation of a telephone system in said city, provided a stipulation shall be filed to the effect that no value shall ever be claimed for such franchise in excess of the actual cost thereof.

Pillsbury, Madison & Sutro, by H. D. Pillsbury, and James T. Shaw, for Petitioner.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners.*

This is a petition by The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asking that the Railroad

Commission make its order declaring that public convenience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 229, new series, of the city of Vallejo, adopted on June 24, 1916.

A public hearing herein was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the petition. The city council of Vallejo notified the Railroad Commission that it has no objection to the granting of the petition.

On May 15, 1916, the Pacific Company filed with the city of Vallejo a petition asking that the city council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 229, new series, of the city of Vallejo, adopted on June 24, 1916, grants to the Pacific Company, its successors and assigns, for a term of twenty-five years from and after the date the ordinance became effective, the right to do a general telephone and telegraph business within the city of Vallejo and, in general, to construct, operate and maintain a telephone and telegraph system on and along the public streets and other public places in the city of Vallejo.

Ordinance No. 229, new series, contains provisions with reference to the use of the streets and construction thereon by the grantee of the franchise, the improvement of the streets, placing of construction underground, no sale of the property erected under the franchise without the consent of the city of Vallejo, the payment by the grantee of the franchise, its successors and assigns, to the city of Vallejo of a percentage of the gross revenue resulting from operation under the franchise, as provided by the Broughton Act, the free use by the city of Vallejo for public business of twenty individual line telephones for exchange service and the free use by the city of Vallejo of overhead and underground construction of the grantee, to the extent indicated, for the city's low tension police and fire alarm systems.

Section 15 of the ordinance contains provisions by which the city of Vallejo may, at the expiration of the term of the franchise, purchase the property of the owner of the franchise in the city of Vallejo at a price determined in the manner specified in said section.

The ordinance contains other provisions to which it is not necessary here to refer.

The Pacific Company has hitherto failed to make application to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights granted by Ordinance No. 229, new series. The failure to make such application to the Railroad Commission was due to the belief of the officials of the telephone company that such application was not necessary.

We recommend that the petition be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition herein asking that the Railroad Commission make its order as specified in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully advised.

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 229, new series, of the city of Vallejo, adopted on June 24, 1916, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it or they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 229, new series, of the city of Vallejo, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3966.

IN THE MATTER OF THE APPLICATION OF MT. TAMALPAIS AND
MUIR WOODS RAILWAY FOR PERMISSION TO HYPOTHECATE
BONDS.

Application No. 2671.

Decided December 29, 1916.

Applicant authorized to issue and pledge \$18,500.00 face value of its bonds as security for a ninety-day note of a like face value.

Thomas, Beedy & Lanagan, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Whereas Mt. Tamalpais and Muir Woods Railway has applied to this commission for authority to pledge \$18,500.00 face value of first

mortgage bonds of Mill Valley and Mt. Tamalpais Scenic Railway as security for a ninety-day note to Union Trust Company of San Francisco in the principal sum of \$18,500.00; and

Whereas it is represented by applicant that the bonds which it desires to pledge were secured by it from Union Trust Company of San Francisco under a decree of the Superior Court of the city and county of San Francisco, dated December 12, 1916, said bonds having been originally purchased by Union Trust Company of San Francisco, with moneys paid into sinking fund from income by Mt. Tamalpais and Muir Woods Railway or its predecessor, Mill Valley and Mt. Tamalpais Scenic Railway, in excess of the requirements of said sinking fund as set forth in the deed of trust under which said bonds were issued;

And it appearing to this commission that applicant is entitled to reimburse its treasury to the extent to which moneys were used from income for purchase of bonds in excess of sinking fund provisions of the mortgage or deed of trust of Mill Valley and Mt. Tamalpais Scenic Railway;

And a hearing having been held, and it appearing that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Mt. Tamalpais and Muir Woods Railway be and it is hereby authorized to issue and pledge \$18,500.00 face value of first mortgage bonds of Mill Valley and Mt. Tamalpais Scenic Railway as security for a ninety-day note in the principal sum of \$18,500.00 and bearing interest at 5 per cent per annum.

The authority herein given is given upon the following conditions and not otherwise:

1. At no time shall the face value of the bonds herein authorized to be pledged exceed by more than 25 per cent the face value of the note or notes secured by said bonds.

2. When the note or notes secured by said bonds have been paid the pledged bonds shall be returned to applicant's treasury and not thereafter issued without a further order from this commission.

3. Mt. Tamalpais and Muir Woods Railway shall keep separate, true and accurate accounts relative to the issue and pledge of the bonds herein authorized to be issued and pledged, and on or before the twenty-fifth day of each month shall make verified reports to the Railroad Commission relative to the issue and pledge of said bonds all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority hereby given to issue and pledge bonds is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

5. The authority hereby given to issue and pledge bonds shall apply only to bonds issued and pledged on or before the 30th day of June, 1917.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3967.

IN THE MATTER OF THE APPLICATION OF HANFORD GAS AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 2639.

Decided December 29, 1916.

Applicant, operating a gas generating and distributing system in the city of Hanford, authorized to issue \$70,000.00 face value 20-year 6 per cent bonds, to be sold at not less than 98, \$50,000.00 face value thereof, to be issued at the present time, the proceeds to be used to retire \$40,000.00 face value of outstanding bonds, the balance for additions and improvements. The balance of \$20,000.00 of such bonds to be issued only under supplemental order as the necessity for improvements and construction work warrants. Authorization conditioned upon the proviso that applicant take immediate steps to enlarge its business, improve its facilities and render efficient service.

E. E. Bush, for Applicant.

REPORT OF THE COMMISSION.

Hanford Gas and Power Company applies for authority to mortgage its property to secure the payment of \$70,000.00, in 6 per cent 20-year first mortgage bonds, to be sold at not less than 98 per cent of their face value; \$40,000.00 of the proceeds to be used in retiring its present bonded indebtedness, and the remainder to be used for extensions and betterments to its plant and system.

Applicant was incorporated December 12, 1902, with an authorized capital stock of \$100,000.00, divided into 100,000 shares of the par value of \$1.00 each, all issued prior to the effective date of the Public Utilities Act. All but 600 shares are now held by five persons. Its \$40,000.00 of bonds are held in two blocks of \$25,000.00 and of \$15,000.00, respectively.

The territory served by the Hanford Gas and Power Company is, at the present time, almost exclusively confined to the city of Hanford, with an estimated population of 6,500, and 4,829 by the federal census of 1910.

It was shown that the population is increasing steadily and that in one subdivision some fifty houses have been built within the last two years.

The generating plant, the first unit of which was constructed in 1903, consists of two 4' straight shot oil gas sets with a total capacity of 240,000 cubic feet for 24 hours. There are the usual generators, scrubbers, blowers and other accessories found in all gas works. The storage capacity consists of one 80,000 cubic foot relief holder and a 100,000 cubic foot storage holder of steel construction. The plant is modern, and, with proper operation, will produce efficient results.

The distribution system consists of 13 miles of mains, varying in size from 6" to 2", and connected to about 720 services and meters. The annual sale of gas for the year 1915, as shown by the company's report to the commission, was 14,269,400 cubic feet, which is an average of about 40,000 cubic feet per day. Comparing this figure with the generator and storage capacity, it is very evident that the production facilities are ample for a much heavier demand for gas and that the reserve capacity of storage holders will provide for all fluctuations with a greatly increased consumption.

The city of Hanford is compactly built, and a large number of new consumers can be connected to the present lines with only an additional high pressure line to reinforce the existing system.

The present average consumption of gas is about 20,000 cubic feet per year per meter. It would not be unreasonable to expect to see this increased to 25,000 cubic feet. Both the number of consumers and the consumption per meter can probably be increased through a well planned and carefully developed business campaign.

It was stipulated that the record in the case of *Frederick Cuttle et al. vs. Hanford Gas and Power Company*, No. 945, relating to service and rates, and heretofore submitted to the commission, be placed in evidence in connection with this application, and that the valuation of applicant's property estimated by the commission's engineers in that proceeding be used as the valuation of applicant's property in this proceeding.

Mr. Gaskell S. Jacobs, one of the commission's gas engineers, made a study of applicant's system and business showing by exhibits in evidence in that case, gas manufactured and sold, active meters, consumption per meter, crude oil used per thousand feet of manufactured gas; and revenue and operating expenses for 1913, 1914 and 1915, as shown by applicant's books.

The engineers for the commission estimate the reproduction cost, and the reproduction cost less depreciation of applicant's plant as of June 30, 1916, as follows:

Item	Reproduction cost	Reproduction cost less depreciation
Franchise (gas)	\$250 00	\$250 00
Land devoted to gas operations.....	2,250 00	2,250 00
Gas plant buildings and general structures.....	4,749 58	3,426 96
Holders	20,061 00	16,878 36
Furnaces, boilers and accessories.....	2,372 47	1,732 63
Gas generators	6,723 79	3,974 21
Purification apparatus	5,160 65	3,593 41
Steam engines	685 00	505 06
Miscellaneous gas plant equipment.....	413 40	357 93
Accessory equipment at works.....	5,987 89	4,543 55
Miscellaneous production equipment.....	543 00	406 90
Distribution mains	23,188 67	17,720 01
Gas services	8,036 83	5,223 91
Gas meters	6,877 00	4,695 93
Miscellaneous distribution equipment.....	1,810 00	1,162 50
General equipment	200 00	160 00
Undistributed construction expenditures.....	8,247 14	6,140 65
Interest during construction.....	2,218 83	1,674 62
Stores and supplies.....	1,618 36	1,618 36
Grand totals	\$101,393 61	\$76,315 05

Applicant reports assets and liabilities as of October 31, 1916, as follows:

Assets:

Fixed capital	\$202,459 26
Cash on hand	2,276 31
Accounts receivable, gas	3,830 97
Accounts receivable, merchandise	303 32
Material and supplies	1,603 33

Total assets

\$210,473 19

Liabilities:

Capital stock	\$100,000 00
Bonds	40,000 00
Accounts payable	479 75
Meter deposits	588 00
Interest accrued	414 60
Reserve for accrued depreciation	9,129 00
Corporate surplus	59,861 75

Total liabilities

\$210,473 19

While the company reports its fixed capital at \$202,459.26, and a corporate surplus of \$59,861.75, the engineers for this commission found the reproduction cost of the properties as above shown to be \$101,393.61, and the reproduction cost less depreciation \$76,315.05. The par value of the stock and bonds outstanding, exceeds the reproduction cost of the properties by the sum of \$38,606.39, and the reproduction cost less depreciation by the sum of \$63,684.95.

Applicant's earning statement for ten months ending October 31, 1916, and as analyzed and adjusted by us, is:

	As reported	As adjusted
Revenue from sale of gas.....	\$19,530 56	\$19,530 56
Operating expense—		
Production	9,751 94	8,251 94
Distribution expense	2,579 16	2,579 16
Commercial and general expense.....	2,108 15	2,108 15
Taxes	2,649 48	1,249 48
Insurance	166 12	166 12
Interest	1,745 00	2,000 00
Depreciation		1,700 00
Total expense	\$18,999 85	\$18,054 85
Profit from operations.....	\$530 71	\$1,475 71

The estimated net earnings for the year 1916, based on above statement, and after making all deductions, including interest, is about \$2,900.00.

Of the above \$9,751.94 production expense \$3,600.00 represents cost of crude oil, under contract expiring December 22, 1916. Oil will probably cost more for next year. It appears possible, however, to introduce greater efficiency in manufacturing, which may be sufficient to offset the increased cost of oil. For instance the average amount of oil used to produce a thousand feet of gas prior to March, 1916, was about 18 gallons, and after that date about 12½ gallons.

Mr. Jacobs testified in Case No. 945 that a suitable annual depreciation reserve roughly estimated was about \$2,000.00. The only provision for depreciation reserve by applicant is \$3,325.34 charged in 1913 and \$5,803.66 charged in 1915. A comparison of applicant's earnings for four years, the latter part of 1916 being estimated, shows \$6,015.83, \$4,586.70, \$3,862.73 and about \$2,900.00 for the years 1913, 1914, 1915 and 1916, respectively, after making all proper deductions, including interest and accounts reported uncollectible and proper provision for depreciation.

Applicant has been charging the following schedule of rates:

Quantity per month	Gross per 1,000 feet	Discount per 1,000 feet	Net per 1,000 feet
600 to 5,000 cubic feet.....	\$2 00	\$0 25	\$1 75
5,100 to 20,000 cubic feet.....	2 00	50	1 50
20,100 cubic feet and over.....	2 00	75	1 25

Minimum charge per month per meter, \$1.00.

Since the hearing in Case No. 945, applicant has filed the following schedule of rates. For gas used in any one month:

	Gross per 1,000 feet	Discount per 1,000 feet	Net per 1,000 feet
For the first 1,000 cubic feet or less.....	\$1 70	\$0 10	\$1 60
For the next 4,000 cubic feet.....	1 60	10	1 50
For the next 5,000 cubic feet.....	1 45	10	1 35
For the next 10,000 cubic feet.....	1 35	10	1 25
For the next 20,000 cubic feet.....	1 10	10	1 00
For all over 40,000 cubic feet.....	95	10	85

Minimum charge per month per meter, \$1.00.

It is evident that applicant can earn an adequate return if its production methods are improved, its consumers increased to 1,000 or more, and its business efficiently managed and developed. Such development should be expected, in view of the business apparently in and about Hanford. In our judgment, immediate development of this fertile territory is essential to applicant's success.

Applicant reports that about 99 per cent of its gas consumption is used for cooking purposes. Probably use for other purposes can be greatly increased. It plans to begin a vigorous campaign for new business. It hopes to develop 450 additional consumers reached by its present system within the year.

Applicant's proposed improvements consist in part of a high pressure belt line encircling the town and running most of the way through productive territory, the whole estimated by it to cost \$28,564.14. It is proposed to connect the mains with the present system in such manner that the pressure will be reinforced, and the cause for complaint on that ground which was presented in the Cuttle case, No. 945, eliminated. Its plans and estimates of cost have been examined by the commission's engineers and are considered by them reasonable.

We are satisfied that only through the medium of a better service, resulting from the proposed improvements and procuring additional business, can applicant hope to increase its earnings in a satisfactory degree.

The unsatisfactory earnings shown by applicant, it says, have resulted because the owners of this property have devoted their energies to other properties in which they are interested. We are assured that they will now vigorously apply themselves to the interests of applicant. We expect them to do so. Our desire to see applicant earn satisfactory returns is due to our belief that a utility which is not successful usually can not serve the public well. We confidently expect applicant to improve its system and service and develop its business to a point which will prove satisfactory to its patrons, to the commission, and to itself.

With that understanding we authorize applicant to mortgage its property and issue bonds under the conditions found in the order.

ORDER.

Hanford Gas and Power Company having applied to the Railroad Commission for authority to mortgage its property to secure the payment of seventy six per cent 20-year first mortgage bonds of the face value of \$1,000,00 each, and to issue said bonds at not less than 98 per cent of their face value, and use \$40,000.00 of the proceeds thereof for the payment of its present bonded debt of \$40,000.00, and use the balance of said proceeds for the improvement of its facilities and service, and a public hearing having been held thereon, and the commission being of the opinion that the money to be procured by such issue is reasonably required for the purposes specified herein, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered by the Railroad Commission of the state of California that Hanford Gas and Power Company be and it is hereby authorized to issue, under conditions hereinafter stated, its bonds of the face value of \$70,000.00, bearing interest at not exceeding 6 per cent per annum, payable twenty years after their date, their payment to be secured by mortgage or deed of trust upon all of applicant's plant and system used in the manufacture, distribution and sale of gas in and about Hanford, Kings County, said instrument to be in form approved by the commission.

It is further ordered that said applicant be and it is hereby authorized to now issue \$50,000.00 face value of its said bonds, and from the proceeds of the sale thereof use \$40,000.00 for the payment of \$40,000.00 face value of bonds now outstanding, but only upon the surrender and cancellation of said bonds; and apply the remainder of said proceeds thereof toward the improvement of its facilities and service by installing the improvements shown in schedule attached hereto; and hereafter to issue \$20,000.00 face value of its said bonds upon supplemental orders hereafter to be entered from time to time, upon a showing satisfactory to the commission, of progress in the construction of said improvements and in the procuring of new business, and use the proceeds thereof for installing said improvements.

The authority herein granted is upon the following conditions:

1. Applicant shall not mortgage its property or issue any bonds hereunder until the commission has approved applicant's proposed mortgage or deed of trust securing payment of said bonds, such approval to be evidenced by supplemental order herein.

2. All bonds issued hereunder or under supplemental orders herein shall be sold at a price which will net to applicant not less than 98 per cent of their face value.

3. The authority to issue the \$50,000.00 in bonds shall apply only to such bonds as may be issued within ninety (90) days after date of supplemental order approving applicant's mortgage or deed of trust. The time within which other bonds may be issued hereunder will be governed by supplemental order.

4. Hanford Gas and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby and hereafter authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to this commission, stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sales, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. Applicant shall file with the commission from the time said bonds are sold until the improvements contemplated are completed monthly reports showing the progress of applicant's proposed construction and showing the new business procured by applicant during the preceding month.

6. The authority herein granted shall not be considered or treated in any proceeding before this commission, or any other tribunal, as a finding by this commission of the value of applicant's property for any purpose other than that of the present application.

7. The authority herein granted to issue bonds shall not become effective until the fees specified in the Public Utilities Act therefor be paid.

Dated at San Francisco, California, this 29th day of December, 1916.

HANFORD GAS AND POWER COMPANY.

Schedule of betterments and additions.

20,000 feet of 2 inch high pressure mains.

4,450 feet of 4 inch; 812 feet 3 inch; and 1,115 feet 2 inch low pressure mains.

4 district governors, 4 manholes, 450 services, 450 meters, 400 regulators, 1 compressor, 1 compressor tank.

Miscellaneous betterments at works estimated to cost about \$4,000.00.

DECISION No. 3968.

IN THE MATTER OF THE APPLICATION OF NORTH SHORE LAND COMPANY FOR AN ORDER ESTABLISHING RATES FOR WATER SERVICE.

Application No. 2528.*Decided December 29, 1916.*

Upon a showing by applicant that its present schedule of rates does not provide sufficient revenues to cover the cost of service, a schedule embodying increases of approximately 30 per cent is established to become effective May 1, 1917. Minimum annual charge \$5.00, payable in advance; in addition, the following charge when service is actually taken: First 500 cubic feet 15 cents per 100, next 1,500 cubic feet 12 cents per 100, over 2,000 cubic feet 7½ cents per 100; flat rate 75 cents per service; monthly minimum 75 cents.

J. C. Goodell, representing Stanley Moore, for Applicant.

REPORT OF THE COMMISSION.

The original petition in this matter requested authority to file and establish the schedule of water rates under which the business in the past had been operated, but for which no formal approval had been obtained. At a public hearing held in San Francisco on October 20, 1916, applicant amended its petition to provide for metering and in such other particulars as might be deemed equitable by the commission, the petition becoming, in effect, a request that applicant's rate schedule be entirely readjusted.

North Shore Land Company conducts a public utility water business for the purpose of supplying Monte Rio, Mesa Grande, Sheridan and the vicinity thereof along Russian River, Sonoma County.

The North Shore Land Company was organized July 28, 1902, with a capital stock of \$10,000.00, for the purpose of subdividing and disposing of certain lands owned by the North Shore Railroad Company, the successor in interest thereof being the present Northwestern Pacific Railroad Company, and the project being advanced partially with a view of attracting traffic along the line of the railroad. In connection with the undertaking, the construction and installation of a water plant and distribution system was necessary, and this has been accomplished, according to applicant, at a cost to date of \$10,412.83. To date, approximately three-fifths of the desirable lots have been disposed of by the company and built upon by the purchasers thereof.

Applicant's water supply is obtained from a number of springs and small, intermittent streams located at various points on the hills immediately adjacent. The water is collected in small wooden tanks and distributed by gravity. The watershed area is heavily wooded, and contains approximately 250 acres. It is owned by applicant. There

is a little over ten miles of pipe line, principally for distribution, all but a few hundred feet of which is two inches or less in size. The system is reasonably well maintained. None of the services are metered.

The communities heretofore named are at present primarily vacation colonies, whose activities, in common with the entire Russian River resort district, are confined almost entirely to the summer season; the number of residents varying from as high as 4,000 in July to barely 300 in midwinter. With a view to determining some form of rate applicable to this particular class of public utility service, both in general and in the case at issue, the commission has endeavored to collect all available data relating to its character and requirements.

Although the present number of services is about 300, those actually served throughout a year do not average in excess of 270. Only 17 per cent of the consumers make these communities their permanent home, practically all the remainder residing in San Francisco and vicinity. With the exception of four hotels served, all water used is for ordinary domestic purposes. The consumers can be divided between those residing on the "hill" and those residing on the "flat." The "hill" consumers constitute 75 per cent of the total number and their use is almost entirely confined to the summer season. Their location on steep, brushy hillsides largely confines the water use to the interior of the residences. The "flat" consumers, on the other hand, are principally permanent residents, with more pretentious dwellings, many of them having large gardens.

The table following is an estimate of duration of occupancy by these residents. This estimate is based upon partial records of applicant's own consumers and upon conditions existing at Rionido, a short distance away, under similar circumstances:

Continuous occupancy	Number of services	Percentage of active total
For 12 months.....	36	13
For 6 to 10 months.....	8	3
For 3 to 5 months.....	19	7
For 2 months.....	106	40
For 1 month.....	101	38
Total active	270	100
Inactive	34	
Total	304	

This table refers only to residence for a continuous period and does not include intermittent occupancy. Data gathered indicate an average of two visits a year by each consumer, in addition to the periods of permanent occupancy given above. The present basic rate charged by

applicant is a flat rate of \$5.00 per annum, with an additional annual charge of \$1.50 for each patent fixture, such as a bathtub or toilet, and special rates for the hotels. Approximately 60 per cent of the consumers have been paying only the \$5.00 charge, 20 per cent paying \$6.50 and 16 per cent \$8.00 per annum.

The hearing on this matter was largely attended by the summer residents of the communities. Complaint was made by a number of consumers that the service was not of the best during certain periods during the summer. While a portion of these complaints can be satisfied by applicant, through the installation of greater storage, particularly in the Mesa Grande and Sheridan sections, the lack of any restrictions upon use during periods of peak demand is partially responsible for these conditions. One remedy lies in metering such consumers as make excessive use or waste of water during the time of great demand, and the commission suggests that such a measure be taken in this particular case.

Applicant submits that the income from water sales has at no time been sufficient to meet the ordinary expenses of operation, and in substantiation presents a statement of receipts and disbursements for the three calendar years 1913, 1914 and 1915, and the first nine months of 1916. For this period the total receipts are shown at \$6,777.50, with disbursements of \$7,954.05, showing a loss in operation of \$1,176.55. With the exception of \$947.43 expended for a resurvey and properly chargeable to capital, all such expenses appear reasonable upon detailed examination. Exclusive of the resurvey expense item, the average annual cost of operation during this period amounts to \$1,855.00.

The commission's engineers estimate the reproduction cost new of the property at \$10,574.00, with a necessary depreciation annuity on the four per cent sinking fund basis of \$301.15. These figures do not contain any sum for the 250 acres of watershed lands, which are estimated by applicant to have a value of \$20.00 per acre. The public utility service value of these lands may be approximated by measure of the cost of pumping and filtering water direct from the Russian River, which indicates a value considerably less than that estimated by applicant.

The primary requirement in the conduct of any public utility business is adequacy of service, which, in turn, requires sufficient return to the producer to encourage continuance of his efforts. We do not believe that applicant's consumers, or for that matter the consumers of any of our public utilities, will object to rates which will provide sufficient funds to properly operate and maintain the plant, provided the business is well administered and the rates equitably distribute the burden.

The rates hereinafter ordered have been advised by our engineers as necessary for maintenance of adequate service. The result may be an increase of about 30 per cent to the majority of applicant's consumers and of between \$700.00 and \$800.00 in applicant's gross annual revenue. Applicant will be expected to consider the revenue derived from this increase to be used in providing better service to its consumers.

Because of the uncertain and intermittent use on this particular system, any uniformity of income can be assured only through a minimum annual payment. This minimum will be equal to the lowest annual payment now made by any of applicant's consumers with a small charge for the period of time during which the commodity is used and a normal meter rate in direct proportion to the quantity used in addition.

It is believed that these rates will equitably distribute the burden, and that the consumer will be paying more nearly in proportion to his use both as to time and quantity than he has heretofore. In fixing the form of rates in this order, we have attempted to provide a guide for similar service throughout the entire Russian River resort territory, but if experience in their application shows them to be unreasonable to either the utility or its patrons, adjustment will be made upon proper showing made before the commission.

ORDER.

North Shore Land Company having made application to this commission for an order establishing a schedule of rates, providing for metering and such other features as the commission might deem equitable, and a hearing having been held and the commission being fully advised in the premises,

The Railroad Commission hereby finds as a fact that the rates charged by North Shore Land Company for water supplied by it to residents of Monte Rio, Mesa Grande, Sheridan and the vicinity thereof are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are fair and reasonable.

Basing its order on the foregoing finding of fact, and on the further findings of fact contained in the opinion preceding this order,

It is hereby ordered that on and after May 1, 1917, North Shore Land Company establish and put into effect the following schedule of rates and charges for water service:

1. A minimum annual charge for both metered and flat rate service of \$5.00 per service, payable in advance.

2. In addition to the minimum annual charge of \$5.00 per service, payment for each month or fraction thereof, during which water is used will be as follows:

a. Metered Service:

For the first 500 cubic feet, 15 cents per 100 cubic feet.

For the next 1,500 cubic feet, 12 cents per 100 cubic feet.

For all over 2,000 cubic feet, 7½ cents per 100 cubic feet.

Minimum monthly charge per service, \$0.75.

b. Flat Rate Service:

For each month or fraction thereof, per service----- \$0.75

It is hereby further ordered that within the period of 20 days from the date of this order, applicant shall file for the approval of this commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3969.

IN THE MATTER OF THE APPLICATION OF THE VENTURA WHARF AND WAREHOUSE COMPANY FOR AN ORDER APPROVING THE ACTION OF THE BOARD OF TRUSTEES OF THE CITY OF SAN BUENAVENTURA, COUNTY OF VENTURA, STATE OF CALIFORNIA, GRANTING AUTHORITY TO SAID CORPORATION TO CONSTRUCT, OPERATE AND MAINTAIN A WHARF WITHIN THE CORPORATE LIMITS OF SAN BUENAVENTURA, WITH A LICENSE TO TAKE TOLLS FOR THE USE OF SAID WHARF FOR A TERM OF TWENTY YEARS.

Application No. 2564.

Decided December 29, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas this commission by an order in the above-entitled matter, dated October 4, 1916, Decision No. 3757, formally approved the permission dated July 17, 1916, granted to Ventura Wharf and Warehouse Company by the Board of Trustees of the city of San Buenaventura by which said company was authorized to construct a wharf and certain buildings, appliances and structures appertaining thereto, together with the right to take tolls for the use of the same for the term of 20 years, provided that said order should not become effective until Ventura Wharf and Warehouse Company should have filed with this Commission a stipulation duly agreeing that it, its successors and

assigns would never claim before the Railroad Commission of the state of California, or any other public body, any value for said permission granted by said city of San Buenaventura in excess of the actual cost thereof, and should have secured from this commission a supplemental order herein, declaring that such stipulation satisfactory in form to this commission had been filed; and

Whereas said Ventura Wharf and Warehouse Company has now filed with this commission a stipulation as above set forth, and it appearing to this commission that said stipulation is in form satisfactory to this commission so far as may be necessary for the purposes of this proceeding,

The Railroad Commission hereby finds as a fact that Ventura Wharf and Warehouse Company has complied with the conditions of its order in Decision No. 3757, dated October 4, 1916.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3970.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR AUTHORIZATION TO ISSUE PROMISSORY NOTES AND TO PLEDGE BONDS TO SECURE THE SAME.

Application No. 2681.

Decided December 29, 1916.

Applicant authorized to issue \$500,000.00 face value of 5 per cent notes to run for a period of not to exceed one year, proceeds thereof to be used to reimburse treasury covering money expended for additions and betterments to plant, also to issue and pledge as security for such notes \$550,000.00 face value of its 4 per cent general mortgage bonds.

John E. Behan, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

In this application Spring Valley Water Company requests authority to issue \$500,000.00 of promissory notes, with interest at 5 per cent per annum to mature eight months after date, and to secure the same by the pledge of \$550,000.00 of its general mortgage 4 per cent bonds. It proposes to use the proceeds to be derived from the issue of these notes for the purpose of reimbursing its treasury for moneys expended from income for capital purposes.

This commission has heretofore authorized the applicant to issue notes and to pledge its bonds to reimburse its treasury for capital expenditures up to October 15, 1915. From October, 1915, to December

1, 1916, the applicant reports the following uncapitalized expenditures for additions and betterments:

City pipe system.....	\$41,246 20
Meters installed	165,153 65
Calaveras dam	663,893 06
Crystal Springs reservoir (improvements).....	4,392 61
Black Point pump.....	501 40
City pumps	1,076 24
Polhemus property improvements.....	259 11
Hydrography	3,067 95
Service connections	31,252 79
Stone dam aqueduct.....	1,184 15
Belmont pumps	214 25
Woodside subdivision	2,631 75
Pleasanton improvements	10,065 56
Pleasanton improvements (walnut orchard).....	990 47
Lake Merced subdivision.....	12,699 19
Nusbaumer property	29 50
Lake Merced ranch.....	17 09
Lake Honda reservoir improvements.....	\$3,139 18
Pumps, buildings and structures.....	4,394 73
Outside meters	296 41
Central pump improvements.....	186 00
Lake Honda transmission line.....	4,673 15
Telephone system	663 87
Sunol improvements	384 58
Thirteenth avenue pipe.....	3,908 00
San Andreas aqueduct.....	831 47
Millbrae pumps	553 29
San Antonio dam improvements.....	1,231 66
	<hr/>
	\$958,937 32
Less proportion of October, 1915, capital expenditures reimbursed under the two-year 5 per cent gold note issue of September 1, 1915, Decision 2690, Railroad Commission.....	<hr/> 17,414 62
	<hr/>
	\$941,522 70

Against this amount Spring Valley Water Company now desires to issue its promissory notes as heretofore stated in the sum of \$500,000.00. These notes are to be payable at the option of the company on any interest date at 100½ per cent if paid before September 1, 1917.

This commission has heretofore reviewed the financial affairs of this applicant and a detailed recital thereof is not essential to determine the matter here presented.

The improvements enumerated are for the purpose of augmenting the water supply and improving the service for the people of the city of San Francisco.

I recommend that the application be granted and submit the following form of order:

ORDER.

The Spring Valley Water Company having applied to this commission for authority to issue \$500,000.00 of promissory notes and to

pledge as security therefor \$550,000.00 face value of its general mortgage 4 per cent bonds, and a hearing having been held and it appearing that the purposes for which the applicant proposes to issue said notes and to pledge said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Spring Valley Water Company be granted authority and it is hereby granted authority to issue its promissory notes in the aggregate sum of \$500,000.00 each, to bear interest at the rate of 5 per cent per annum, payable monthly, said notes to be dated December 31, 1916, or thereabouts, and to mature within one year thereafter, but to be payable at the option of the maker on any interest date at 100½ per cent if paid before September 1, 1917.

It is further ordered that Spring Valley Water Company be granted authority and it is hereby granted authority to pledge as security for the notes herein authorized to be issued its general mortgage 4 per cent bonds in the aggregate sum of \$550,000.00.

The authority herein given to issue said notes and to pledge said bonds is given upon the following conditions and not otherwise:

1. The face value of the bonds pledged to secure any of the notes herein authorized to be issued shall at no time be more than 110 per cent of the face value of the note to secure which it shall have been pledged.

2. The notes herein authorized to be issued shall be so issued as to net the applicant the face value thereof plus accrued interest.

3. The proceeds derived from the notes herein authorized to be issued shall be used to reimburse the applicant for moneys expended upon capital additions, as set forth in the preceding opinion.

4. After the notes herein authorized to be issued shall have been paid, the bonds herein authorized to be pledged to secure said notes shall be returned to applicant's treasury and issued thereafter only upon the order of this commission.

5. The applicant shall report to this commission on the twenty-fifth day of each month the note or notes issued, under the authority herein given, with a statement of the face value, payee, maturity and rates of interest of said notes.

6. The authority herein given to issue said notes shall apply to such notes as shall have been issued on or before March 31, 1917.

7. The authority herein given is conditioned upon the payment by the applicant of the fee provided under the terms of the Public Utilities Act.

Dated at San Francisco, California, this 29th day of December, 1916.

DECISION No. 3971.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING IT TO ISSUE, SELL AND DELIVER ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE PAR VALUE OF \$5,000,000.00, AND ITS FIRST PREFERRED STOCK TO THE PAR VALUE OF \$12,500,000.00, AND TO USE THE PROCEEDS FROM THE SALE OF SAID BONDS AND SAID FIRST PREFERRED STOCK IN THE MANNER AND FOR THE PURPOSES DESCRIBED HEREIN.

Application No. 1188.

Decided December 30, 1916.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered, on petition of Pacific Gas and Electric Company, that the fifth condition in the order of June 30, 1914, in the above-entitled proceeding (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 1383) be and the same is hereby modified to read as follows:

“5. Pacific Gas and Electric Company is hereby authorized to issue on July 1, 1916, and during the period of 12 months subsequent thereto, unless such period be hereafter extended, 1,025 shares of its first preferred capital stock in exchange for each share of its original preferred stock up to the maximum of \$10,000,000.00, par value, of said original preferred stock, to all holders of said original preferred stock who may present the same for such exchange.”

In all other respects, said order of June 30, 1914, as modified by supplemental orders now in effect, shall remain in full force and effect.

Dated at San Francisco, California, this 30th day of December, 1916.

DECISION No. 3972.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR APPROVAL BY THE RAILROAD COMMISSION OF RENEWAL OF SOUTHERN PACIFIC COMPANY'S WHARF FRANCHISE AT SUMMERLAND, SANTA BARBARA COUNTY, CALIFORNIA.

Application No. 2698.

Decided December 30, 1916.

Approval given to franchise obtained by applicant from county of Santa Barbara permitting the maintenance of a wharf and improvements at Summerland in said county.

REPORT OF THE COMMISSION.

Southern Pacific Company applies to the Railroad Commission pursuant to section 2906, Political Code, for an order approving the proposed grant by the board of supervisors of Santa Barbara County of authority for applicant to maintain its wharf extending into the waters of Santa Barbara Channel not over 1,200 feet from the end of a street known as Cary Place in the town of Summerland, Santa Barbara County.

It appears from the application that the franchise to construct and maintain said wharf for a period of 20 years was originally granted April 4, 1898, by the board of supervisors of Santa Barbara County to J. B. Treadwell and by him transferred to applicant on March 20, 1903; that valuable improvements have been constructed under the franchise and that applicant proposes to apply to the board of supervisors for a renewal of its said franchise for an additional period of 20 years.

ORDER.

Southern Pacific Company having applied to the Railroad Commission for an order approving grant of authority by the board of supervisors of Santa Barbara County to applicant to maintain its wharf extending southerly into the waters of Santa Barbara Channel for a distance not exceeding 1,200 feet from the end of the street known as Cary Place, in the town of Summerland, Santa Barbara County, said wharf having been constructed under authority contained in franchise granted by said board to J. B. Treadwell on April 4, 1898, and thereafter assigned by him to applicant; and a public hearing upon said application not appearing necessary,

It is hereby ordered by the Railroad Commission of the state of California that the application be and it is hereby granted and said commission does hereby approve any authority which may be granted by the board of supervisors of Santa Barbara County renewing said franchise for an additional period of 20 years or to maintain said wharf or improvements for said additional period.

Dated at San Francisco, California, this 30th day of December, 1916.

DECISION No. 3973.

THE BRUNSWICK-BALKE-COLLENDER COMPANY OF CALIFORNIA
vs.
SPRING VALLEY WATER COMPANY.

Case No. 1002.*Decided January 2, 1917.*

BY THE COMMISSION.**ORDER OF DISMISSAL.**

It appearing that complainant does not wish to proceed further with the proceeding entitled as above,

It is hereby ordered that the same be and it is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 2d day of January, 1917.

DECISION No. 3974.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO USE THE PROCEEDS FROM THE SALE OF ITS FIRST PREFERRED STOCK AND FROM THE SALE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AUTHORIZED TO BE ISSUED AND SOLD IN DECISION NO. 3023 ON APPLICANT'S AMENDED APPLICATION NO. 1994 FOR ADDITIONS TO AND BETTERMENTS OF ITS PROPERTY IN ACCORDANCE WITH ITS CONSTRUCTION PROGRAM CONTAINED IN EXHIBIT "A" HEREOF.

Application No. 1994 (First Supplemental).*Decided January 4, 1917.*

Applicant was heretofore authorized to issue bonds and preferred stock, disposition of the proceeds thereof to be held in abeyance subject to the conditions of supplemental orders. It is now authorized to reimburse its treasury in the sum of \$1,068,803.86 covering capital expenditures made to and including August 31, 1916, and to use the balance of such proceeds for construction expenses incurred subsequent to the above date.

Charles P. Cutten, for Applicant.

DEVLIN, *Commissioner*.

FIRST SUPPLEMENTAL OPINION.

In this supplemental application Pacific Gas and Electric Company asks authority to expend, for purposes hereinafter indicated, the proceeds obtained from the sale of first preferred stock and general and refunding mortgage bonds authorized to be issued by this Commission's Decision No. 3023, dated January 3, 1916.

The commission's order found in said Decision No. 3023, dated January 3, 1916, in so far as it relates to the purposes for which applicant was authorized to issue said preferred stock and bonds, reads as follows:

“(a) To reimburse its treasury for capital expenditures to August 31, 1915, in the sum of \$491,744.43.

“(b) To pay for the cost of extensions, additions and betterments to its plant, in accordance with Exhibit “A” attached to second supplemental application No. 1188, provided that none of the proceeds shall be used for new construction estimated at \$3,150,000.00 arising out of the development of the company's business and the additions of new consumers, until applicant herein shall have filed with this commission a detailed statement of said expenditures, and provided further that none of the proceeds shall be applied to the construction of power house No. 6 unless authorized by this commission in a supplemental order.”

A summary of Exhibit “A,” to which reference has just been made, is found in said Decision No. 3023, dated January 3, 1916, and shows the following:

General manager construction authorized—August 31, 1915:

Electric department.....	\$617,036 83
Gas department.....	219,873 74
Water department.....	25,627 62
Railway department.....	39,850 01
Steam sales department.....	2,119 24
Miscellaneous and all departments.....	129,656 98

Total (excluding South Yuba).....	\$1,034,164 42
South Yuba construction.....	3,672,453 80

General manager construction authorized..... \$4,706,618 22

Estimated new construction, arising out of the development of the company's business and the addition of new consumers:

Electric department.....	\$1,500,000 00
Gas department.....	1,000,000 00
Water department.....	250,000 00
Railway department.....	250,000 00
Steam sales department.....	25,000 00
Supply department.....	25,000 00
All departments and miscellaneous.....	100,000 00

Total estimated new construction.....	3,150,000 00
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Total capital expenditures to be made.....	\$7,856,618 22
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In a letter of December 4, 1916, in regard to the estimated expenses on its South Yuba development, applicant reports as follows:

“The item ‘South Yuba Construction Department’ \$3,672,453.80 shown in Exhibit A in the first column headed ‘Expenditures Authorized’ includes an unexpended balance of \$1,410,976.48 for the construction of power houses 4, 5 and 6 on the South Yuba System, as per our General Manager's Authorization designated as

H-1664 and that this authorization has been superseded by the item in Exhibit B 'South Yuba Construction Department' \$1,850,000.00, covered by our General Manager's Authorization designated as H-6272, and this is to advise specifically that no further expenditures are being, or will be, made against authorization H-1664 and that the unexpended balance of \$1,410,976.48 shown on Exhibit A may be regarded as definitely canceled providing the item in Exhibit B, \$1,850,000.00 is authorized by the commission, in conformity with our application."

As indicated in its letter, applicant has submitted a revised Exhibit "A," showing the amount of expenditures authorized as of August 31, 1915, the expenditures incurred for the twelve months ending August 31, 1916, and the unexpended balance. These authorized expenditures together with the expenditures actually incurred during the year, as well as the amount yet to be expended, are shown in the following statement:

	Expenditures authorized Aug. 31, 1915	Total expenditures to Aug. 31, 1916	Unexpended balance
General manager's construction authorized—			
Electric department (excluding South Yuba construction department).....	\$617,036 83	\$464,111 04	\$152,925 79
Gas department	219,873 74	198,725 13	21,148 61
Water department	25,627 62	47,169 41	*21,541 79
Railway department	39,850 01	12,427 97	27,422 04
Steam sales department.....	2,119 24	203 08	1,916 21
Miscellaneous and all departments....	129,656 98	175,072 81	*45,415 83
Totals (excluding South Yuba).....	\$1,034,164 42	\$897,709 39	\$136,455 03
South Yuba construction department..	2,261,477 32	2,109 51	2,259,367 81
Totals general manager's construction	\$3,295,641 74	\$899,818 90	\$2,395,822 84
Deduct—			
Property abandoned or displaced on general manager's		355,031 42	-----
Net general manager's construction		\$544,787 48	-----
Estimated new construction—			
Electric department	\$1,500,000 00	\$265,301 11	\$1,234,698 89
Gas department	1,000,000 00	351,253 79	648,746 21
Water department	250,000 00	64,530 51	185,469 49
Railway department	250,000 00	67,204 83	182,795 17
Steam sales department.....	25,000 00	15,328 71	9,671 29
Supply department and miscellaneous.	25,000 00	*374 14	25,374 14
All departments	100,000 00	114,856 10	*14,856 10
Total estimated new construction....	\$3,150,000 00	\$878,100 91	\$2,271,899 09
Total expenditures authorized.....	6,445,641 74		
Total expenditures made.....		1,422,888 39	
Total expenditures to be made.....			4,667,721 93

*Deficit.

In Exhibit "B" attached to this supplemental application, applicant reports the following:

Department	Expenditures authorized	Expenditures to Aug. 31, 1916	Unexpended balance
Electric department -----	\$547,181 39	\$65,014 31	\$482,167 08
Miscellaneous and all departments-----	103,575 00	103,440 02	134 98
South Yuba construction department----	1,850,000 00	818,535 81	1,031,464 19
Totals -----	\$2,500,756 39	\$986,990 14	\$1,513,766 25

The authorized expenditures of the electric department, as recorded in Exhibit "B," include \$68,181.39 for the construction of a new sub-station at South San Francisco; \$210,000.00 for raising Lake Spaulding dam from 225 feet to 260 feet; \$235,000.00 to construct canals and conduits necessary to return water used through Halsey and Wise power houses to the irrigation system near Newcastle; and \$34,000.00 to purchase land and clearing rights of way for spilling water from the Bear River Canal.

The expenditures reported under "Miscellaneous and All Departments" consist of \$72,425.02 paid for an office site in Oakland; \$5,015.00 for an office site in San Rafael; and \$26,000.00 for an office site and buildings in Berkeley.

Up to August 31, 1916, applicant reports its expenditures on the N. W. Halsey and James H. Wise power plants and on the James H. Wise transmission line, as per Exhibit "B," at \$818,535.81.

In Exhibit "C," attached to the supplemental application, applicant estimates that during 1916 and 1917 it will be called upon to expend \$50,000.00 on its steam sales department and \$200,000.00 for "all departments and miscellaneous" purposes to provide for the development of the company's business and the addition of new consumers.

In this supplemental petition applicant requests authority to reimburse its treasury in the sum of \$1,068,803.86 expended to and including August 31, 1916, from income for capital purposes, as hereinbefore indicated, and for such other sums as may be expended subsequent to August 31, 1916, pursuant to expenditures authorized as shown in Exhibits "A," "B," and "C" attached to this supplemental application.

I believe that applicant's request should be granted, and herewith submit the following form of order:

FIRST SUPPLEMENTAL ORDER.

Pacific Gas and Electric Company having applied to this commission for authority to use the balance of the proceeds obtained from the sale of its first preferred stock and general and refunding mortgage bonds

authorized to be issued by Decision No. 3023, dated January 3, 1916, for the purposes hereinbefore indicated, and a hearing having been held and it appearing that the purposes for which applicant desires to use the proceeds are not in whole or in part reasonably chargeable to operating expenses or income.

It is hereby ordered that Pacific Gas and Electric Company be and hereby is granted authority to use part of the proceeds from its issue of first preferred stock and general and refunding bonds authorized to be issued by Decision No. 3023, dated January 3, 1916, to reimburse its treasury in the sum of \$1,068,803.86 for expenditures made to and including August 31, 1916, for purposes indicated in the foregoing opinion.

It is hereby further ordered that Pacific Gas and Electric Company be and is hereby given authority to apply the balance of the proceeds obtained from the sale of its first preferred stock and its general and refunding mortgage bonds authorized to be issued by Decision No. 3023, dated January 3, 1916, to the payment of construction expenses incurred subsequent to August 31, 1916, for the purpose of carrying out its construction program, as indicated in Exhibits "A," "B," and "C" attached to this supplemental application.

The authority herein granted is granted upon the following conditions and not otherwise:

1. All expenditures incurred or reimbursements made pursuant to the authority granted in this decision shall be reported in accordance with the conditions of this Commission's General Order No. 24.

2. Decision No. 3023, dated January 3, 1916, shall remain in full force and effect, except as the same may be modified by this first supplemental opinion and order.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of January, 1917.

DECISION No. 3975.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FACE VALUE OF ITS GENERAL AND REFUNDING MORTGAGE FIVE PER CENT GOLD BONDS IN THE MANNER AND FOR PURPOSES SPECIFIED HEREIN.

Application No. 2675.

Decided January 4, 1947.

Applicant authorized to issue \$2,500,000 face value of its 5 per cent general and refunding mortgage bonds, payable January 1, 1942, such bonds to be sold so as to net not less than 90, proceeds to be used for additions and betterments to its system, provided that none of such proceeds shall be expended until a supplemental order has been issued by the commission defining the specific purposes for which they shall be used.

Wm. B. Bosley and Charles P. Cullen, for Applicant.

OPINION.

THELEN, Commissioner.

In this application, Pacific Gas and Electric Company asks authority to issue and sell \$2,500,000.00 face value of its general and refunding mortgage 5 per cent gold bonds at a price not less than 90 per cent of their face value and accrued interest. The bonds mature January 1, 1942.

Applicant also desires authority to use the proceeds obtained from the sale of the bonds for the acquisition of such property and for the construction, completion, extension and improvement of such facilities as have been heretofore authorized by the Railroad Commission, or which may be hereafter authorized by it.

Applicant alleges that its general manager and executive committee have authorized certain expenditures for construction work to be done during the years 1916 and 1917, including extensions, additions and betterments to applicant's existing property and facilities, all of which is set forth in detail in Exhibit "A" attached to applicant's Second Supplemental Application No. 1188 and Exhibits "B" and "C" attached to applicant's First Supplemental Application No. 1994, now pending before the Railroad Commission. These include the South Yuba power development and several extensions of the electric, gas, water and railway facilities.

While applicant incorporates the aforementioned exhibits in this application, I believe that it would facilitate matters if it would file a revised single exhibit in connection with this proceeding, said exhibit to show the specific purposes for which the proceeds of these bonds are to be expended. In general, it appears that the proceeds are to be

used to carry out applicant's construction program, which on August 31, 1916, called for the expenditure of about \$6,431,488.18. I am willing to recommend that applicant be granted authority to issue the \$2,500,000.00 of general and refunding bonds, covered by this application, the proceeds to be expended after this commission has issued a supplemental order specifying the purposes for which the proceeds are to be used.

As of October 31, 1916, applicant reports its assets and liabilities as follows:

<i>Assets Accounts.</i>	
Fixed capital installed prior to January 1, 1913—	\$106,047,465 47
Fixed capital installed since December 31, 1912—	
Electric	15,562,293 82
Fixed capital installed since December 31, 1912—	
Gas	4,582,335 01
Fixed capital installed since December 31, 1912—	
Water	385,981 18
Fixed capital installed since December 31, 1912—	
Miscellaneous	1,184,340 38
	<hr/>
Total fixed capital.....	\$127,762,415 86
Cash and deposits:	
A. Cash	\$2,473,414 76
B. Deposits	62,767 80
	<hr/>
Total cash and deposits.....	2,536,182 56
Notes receivable.....	253,535 37
Accounts receivable:	
B. Due from consumers and agents.....	\$1,872,149 71
C. Miscellaneous accounts receivable.....	62,061 01
	<hr/>
Total accounts receivable.....	1,934,210 72
Interest and dividends receivable.....	14,020 74
Other current assets.....	1,769,018 07
Investments:	
C. Miscellaneous investments.....	\$13,967 54
	<hr/>
Total investments.....	13,967 54
Materials and supplies.....	1,488,495 83
Sinking funds.....	3,877,285 45
Treasury securities (\$875,000 hypothecated).....	1,259,000 00
Prepaid expenses:	
D. Prepaid taxes.....	\$629,149 06
	<hr/>
Total prepaid expenses.....	629,149 06
Unamortized discount on securities and expenses:	
A. Stocks	\$3,878,831 22
B. Bonds	4,359,017 76
	<hr/>
Total unamortized discount on securities and expenses.....	8,237,848 98
Other suspense (debit).....	621 32
Construction work in progress.....	4,348,273 54
	<hr/>
Total assets.....	\$154,124,025 04

Liability Accounts.

Capital stock -----	\$89,480,707 16	
Less: Owned by system corporations-----	31,696,866 66	
		\$57,783,840 50
Funded debt-----		82,257,000 00
Bonds called but not redeemed-----		910 00
Accounts payable:		
A. Accounts with system corporations-----	\$37,977 58	
B. Audited vouchers and wages unpaid-----	1,172,309 40	
C. Consumers' deposits-----	366,234 91	
D. Miscellaneous accounts payable-----	104,569 57	
Total accounts payable -----		1,681,091 46
Interest accrued-----		1,283,400 55
Taxes accrued-----		489,090 14
Dividends declared-----		352,612 54
Reserve for accrued depreciation-----		3,018,229 33
Casualty and insurance reserves-----		81,008 61
Reserves invested in sinking funds-----		1,077,914 26
Other reserves from income or surplus:		
A. Earnings in suspense account of rate cases	\$1,507,338 66	
B. Bad debt reserve-----	188,215 52	
Total other reserves from income or surplus-----		1,695,554 18
Other suspense (credit)-----		14,457 42
Corporate surplus (unappropriated)-----		4,388,916 05
Total liabilities-----		\$154,124,025 04

¹Includes stock subscribed but fully paid for amounting to \$265,900.

²By stipulation between the subsidiary corporations and the Pacific Gas and Electric Company, dividends are waived on proportional amounts held by the latter company.

Pacific Gas and Electric Company for the year ended December 31, 1915, and for the ten months ended October 31, 1916, has reported revenues and expenses to this commission as follows:

Item	Year ended Dec. 31, 1915	Ten months ended Oct. 31, 1916
Electric operations—		
Revenues	\$10,121,560 89	\$8,310,141 98
Expenses	5,505,686 43	4,401,187 71
Net	\$4,615,874 46	\$3,908,954 27
Gas operations—		
Revenues	\$7,560,185 33	\$6,118,436 40
Expenses	4,400,597 19	3,819,483 21
Net	\$3,159,588 14	\$2,298,953 19
Water operations—		
Revenues	\$420,216 85	\$376,960 93
Expenses	208,201 24	196,060 66
Net	\$212,012 61	\$180,900 27
Other operating revenues—Street railway, etc., net—	91,347 93	69,209 60
Total net operating revenue	\$8,081,823 14	\$6,458,020 33
Nonoperating revenues—		
Miscellaneous rent revenue	\$20,918 91	\$14,397 41
Interest	51,561 92	36,069 43
Dividends	512 40	396 50
Sinking and reserve fund accretions	165,734 41	150,387 87
Miscellaneous nonoperating revenues, net	151,639 90	61,160 94
Total nonoperating revenue	\$390,367 54	\$262,412 15
Gross corporate income	\$8,472,190 68	\$6,720,432 48
Deductions—		
Uncollectible bills	\$108,000 00	\$90,000 00
Nonoperating taxes	10,034 71	8,421 12
Interest accrued on funded debt	3,808,507 75	3,224,152 81
Other interest	176,902 77	8,148 49
Rent for conduits, poles and other supports	4,431 33	2,392 95
Amortization of debt discount and expense	160,410 43	144,318 32
Total deductions	\$4,259,424 33	\$3,472,647 79
Net income, available for dividends, sinking fund, etc.	\$4,212,766 35	\$3,247,784 69

The revenues and expenses for 1915 as shown in the foregoing table are taken from the annual report on file with the commission. Those for the ten months ending October 31, 1916, appear in Exhibit "A" attached to this application. The earnings statement for 1915, includes \$398,288.23, charged in excess of ordinance rates, now in litigation in the federal courts.

As indicated above applicant desires authority to sell the \$2,500,000.00 of bonds at not less than 90 per cent of their face value plus accrued interest. A. F. Hockenbeamer, vice-president and treasurer

of Pacific Gas and Electric Company, is of the opinion that the company will be able to sell its bonds at a figure in excess of 90 per cent of their face value, plus accrued interest. It is gratifying to note that while this applicant was able to sell its bonds of this same issue in 1912, when this commission first assumed jurisdiction over its finances, at 85 per cent of par, it is now able to sell them at 90, an advance of five points, which in this particular proceeding amounts to \$125,000.00.

I recommend that the application be granted and submit the following form of order:

ORDER.

Pacific Gas and Electric Company, having applied to the Railroad Commission of the State of California for authority to issue \$2,500,000.00 face value of its 5 per cent general and refunding bonds, at not less than 90 per cent of their face value plus accrued interest, and a public hearing having been held, and it appearing that the purposes for which applicant herein desires to use the proceeds obtained from the sale of said bonds, are not in whole or in part reasonably chargeable to operating expenses;

It is hereby ordered, that Pacific Gas and Electric Company be given and hereby is given authority to issue \$2,500,000.00 face value of its general and refunding 5 per cent bonds due and payable January 1, 1942.

The authority hereby granted is granted subject to the following conditions and not otherwise:

1. The bonds hereby authorized to be issued shall be sold at not less than 90 per cent of their face value plus accrued interest.

2. No part of the proceeds obtained from the sale of said \$2,500,000.00 face value of bonds shall be expended until the commission by supplemental order has defined the purposes for which said proceeds may be expended.

3. Pacific Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

5. The authority herein granted shall apply only to such bonds as may be issued on or before November 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of January, 1917.

DECISION No. 3976.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS AND SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO EXCHANGE ALUM ROCK FIRST MORTGAGE BONDS OF THE AGGREGATE PAR VALUE OF FIFTY THOUSAND DOLLARS AND SAN JOSE AND SANTA CLARA RAILROAD COMPANY FIRST MORTGAGE SINKING FUND GOLD BONDS OF THE AGGREGATE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS FOR SAN JOSE AND SANTA CLARA COUNTY RAILROAD COMPANY FIRST AND REFUNDING MORTGAGE SINKING FUND FORTY-YEAR GOLD BONDS OF THE AGGREGATE PAR VALUE OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 2702.

Decided January 4, 1917.

Guy Shoup, for Applicant.

LOVELAND, Commissioner.

OPINION.

In this matter, San Jose Railroads applies to this commission for authority to purchase \$50,000.00 of San Jose and Alum Rock Railway 6 per cent bonds and \$200,000.00 of San Jose and Santa Clara Railroad Company 6 per cent bonds; all of said bonds having matured January 3, 1913, and now being held by Southern Pacific Company. San Jose Railroads also ask for authority to refund said \$250,000.00 of bonds by the issue to Southern Pacific of \$250,000.00 of San Jose and Santa Clara County Railroad Company 40-year 4½ per cent gold bonds.

At the hearing, the applicant withdrew the request for authority to issue the \$250,000.00 of San Jose and Santa Clara County Railroad Company bonds, stating that the matter would be re-presented when full information was at hand as to the price at which the bonds were to be issued.

This leaves, therefore, merely the request of San Jose Railroads to purchase bonds of San Jose and Alum Rock Railway and San Jose and Santa Clara Railroad Company, its subsidiaries. An authorization from the commission is not necessary for this purchase and the matter will, therefore, be dismissed.

ORDER.

It is hereby ordered that the application herein be and the same is hereby ordered dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of January, 1917.

Decision No. 3977, grade crossing; not printed. See end of volume.

DECISION No. 3978.**ALFRED N. WAITE ET AL.***vs.***GRIZZLY ELECTRIC COMPANY.**

Case No. 942.

Decided January 4, 1917.

A. N. Waite, for Complainants.

L. H. Hughes, for Defendants.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

It appearing that there is a typographical error in the opinion and order heretofore made in this proceeding.

It is hereby ordered that the statement as to the time of putting into effect the rates established in the opinion and order rendered herein on the 26th day of December, 1916, is hereby corrected to read as follows:

The rates herein established shall be effective on and after January 15, 1917.

Dated at San Francisco, California, this 4th day of January, 1917.

DECISION No. 3979.

IN THE MATTER OF THE APPLICATION OF OAK CREEK LAND AND WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2357.

Decided January 5, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

A hearing upon the above application having been held at Mojave July 8, 1916, and the said hearing having been adjourned with the

understanding that a subsequent hearing would be held after the preparation and filing of certain necessary data, and applicant having in writing under date of January 2, 1917, requested the privilege of withdrawing the application without prejudice,

It is hereby ordered by the Railroad Commission of the State of California, that said application be and it is hereby dismissed without prejudice to any rights of applicant.

Dated at San Francisco, California, this 5th day of January, 1917.

DECISION No. 3980.

IN THE MATTER OF THE COLLECTION BY SPRING VALLEY WATER COMPANY OF METER CHARGES FOR WATER SUPPLIED IN THE CITY AND COUNTY OF SAN FRANCISCO.

Case No. 1027.

Decided January 6, 1917.

- A proceeding occasioned by receipt of a request from respondent company that the Railroad Commission permit it, after a period of three months, to put into effect without formal investigation, a schedule of meter rates to residents of San Francisco in whose premises it has recently installed meters.
1. The rates of respondent established by ordinance of the city and county of San Francisco and filed by respondent with this commission as provided by law, are the legal rates at present in effect. Under such rates, as provided by the city and county ordinance, a flat rate only can be charged to residences, except in case of excessive use, accordingly respondent has no legal right at this time to put into effect a meter rate for such services without first securing a formal order of the Railroad Commission.
 2. The metering of water systems conserves the supply and it is of public interest that all water systems be metered, especially when the supply of water is not abundant and conservation is necessary, provided that the meter rates are just, the minimum charge reasonable and the measuring device reliable.
 3. The commission can not offhand approve a meter rate when such meter rate will increase the gross revenues of the utility without an exhaustive investigation into the question as to what constitutes a fair and reasonable rate for the service rendered.
 4. Respondent required to continue in effect its present schedule of flat rates, irrespective of the fact that meters are installed, until such time as the Railroad Commission shall have completed a valuation of its property and established, after due investigation, a fair and reasonable schedule of rates. Proceedings in all other respects dismissed.

Warren Olney, Jr. and *A. Crawford Greene*, for Spring Valley Water Company.

Robert M. Searls, Assistant City Attorney, for City and County of San Francisco.

C. D. Salfeld, for Haight and Ashbury Improvement Association, North of Panhandle Improvement Club, Water Bill Payers Protective Association.

John J. Dailey, for Water Committee of Civic League of Improvement Clubs.

Louis A. Colton, *Ben Schloss* and *S. W. Molkenbuhr*, for Park and Presidio Improvement Association.

J. W. Pembroke, for Apartment House Owners Association.

Mattie Lois Fest, for West of Fillmore Street Improvement Club.

E. P. E. Troy, for Public Ownership Association.

Daniel O'Connell, for Richmond Heights Improvement Association.

Mrs. Louise Sorbier, for Arguello Boulevard Improvement Club.

R. H. Norton, for Fillmore Street Improvement Association.

Josephine Brown, for Jordan Park Improvement Club.

J. E. White, *Henry B. Lister*, *Patrick A. Dolan*, *Dr. C. F. Buckley*,
E. P. Arbaugh, *Henry Warfield*, *W. A. Sutherland*, *John T. Quigley*, *in propria persona*.

BY THE COMMISSION.

OPINION.

This is a proceeding brought on the Railroad Commission's own initiative for the purpose of considering and passing upon a request of Spring Valley Water Company for a modification of the directions contained in letter of November 2, 1916, from the Railroad Commission to Spring Valley Water Company.

Public hearings herein were held in San Francisco on December 27 and 28, 1916, before the Railroad Commission en banc. The proceeding was submitted for decision on December 28, 1916.

Spring Valley Water Company is engaged in the sale of water, as a public utility, to the city and county of San Francisco and the inhabitants thereof and to other customers.

The rates of Spring Valley Water Company now in effect were established by the board of supervisors of the city and county of San Francisco by Ordinance No. 3346 (new series), passed on June 29, 1915, and effective July 1, 1915. As provided by law, these rates were filed by Spring Valley Water Company with the Railroad Commission on or about August 8, 1915, when the revised Public Utilities Act became effective. Ever since July 1, 1915, these rates have been and they are now the legal and effective rates to be charged by Spring Valley Water Company for water sold to the city and county of San Francisco and to the inhabitants thereof.

None of these rates were established by the Railroad Commission and the commission has not had any opportunity to pass on any of them, nor has the commission approved any of said rates.

Ordinance No. 3346 (new series) of the board of supervisors established rates for both flat (*i. e.*, unmetered) and metered service of water. The rates established for metered service were limited to speci-

fied classes of service, as will appear hereinafter in greater detail. Prior to the middle of 1916, Spring Valley Water Company had metered a large number of its business customers, and some 800 to 900 residence customers whose services were metered under special provisions of said Ordinance No. 3346 (new series) and similar earlier ordinances.

Beginning with July 31, 1916, however, Spring Valley Water Company metered a large number of its residence customers until on December 15, 1916, 14,836 additional meters had been installed on residence services. Spring Valley Water Company is still engaged in installing additional meters on its residence services. The company contemplates the installation of approximately 25,000 meters on residence services subsequent to July 31, 1916.

The record herein shows agreement by practically all interests that, with certain possible exceptions, Spring Valley Water Company's water system should be metered in its entirety. The principal water companies in the United States, whether owned by private individuals or by municipalities or other public authorities, have, with few exceptions, metered all or the major portion of their systems. Metering conserves water and hence is in the public interest, particularly when the supply is not abundant. Furthermore, metering is fair as between consumer and consumer because it enables each consumer to pay for what he gets and prevents the careless or wasteful consumer from penalizing the consumer who is careful in the use of water. In the case of Spring Valley Water Company, there are particular additional reasons, to which it is not necessary to refer in this proceeding, why every reasonable precaution should be taken to conserve the use of water.

The Railroad Commission announced at the hearing herein that the commission believes that the Spring Valley Water Company's system should, with certain possible exceptions, be metered in toto. This position, however, is subject to three distinct conditions: (1) the meter rates must be just; (2) the minimum charge for metered service must be reasonable; and (3) the measuring devices must be reliable.

The installation by Spring Valley Water Company of meters on residence services on and after July 31, 1916, resulted in many difficulties with reference to the charges to be collected from the consumers whose services were thus being metered. These difficulties resulted partly from excessive or wasteful use of water due to carelessness, leaky fixtures and other causes, partly from the fact that landlords and others had not made their arrangements in contemplation of metered services, partly from the form of the rates established by said Ordinance No. 3346 (new series) of the board of supervisors, and partly from the fact that the Railroad Commission has had no opportunity to pass upon the reasonableness of the flat rates or the meter rates or the mini-

mum rates for metered service established by said Ordinance No. 3346 (new series) of the board of supervisors.

As the result of these difficulties, the Railroad Commission on November 2, 1916, wrote the following letter to Spring Valley Water Company:

November 2, 1916.

*"Spring Valley Water Company,
San Francisco, California.*

GENTLEMEN: The Railroad Commission is in receipt of many informal complaints to the effect that the charges of your company for water supplied through the meters which you have installed in San Francisco are considerably higher than the flat rates heretofore in effect.

At the time you started metering your water system in San Francisco, you made the distinct representation to the Railroad Commission that your only purpose in doing so was to conserve the water supply of San Francisco and that there was no intention on your part to increase your revenue.

From the data so far available, our Hydraulic Department reports that your company has derived a substantial increase in revenue during the first month in which you have collected meter rates.

The meter rates now in effect in San Francisco were established by the Board of Supervisors and the Railroad Commission has had no opportunity to pass upon the reasonableness of these rates. although a formal complaint against your rates was filed with this Commission by the City and County of San Francisco, the city has been unable thus far to proceed and has asked the Railroad Commission to hold the matter in suspense until further advised by the city. No other formal complaint affecting your rates has been filed with the Railroad Commission.

While metered service under proper rates is undoubtedly desirable, we are of the opinion that it is neither fair nor proper that you should begin charging meter rates until the consumer has had an opportunity to adjust himself to the new situation and until the Railroad Commission has had an opportunity to pass upon the reasonableness of the meter rates established by the Board of Supervisors and now in effect.

Accordingly, you are hereby directed to bill your subscribers according to the flat rates heretofore in effect and not to bill them under meter rates until February 1, 1917, or the further order of the Railroad Commission. Such meter rates as you may already have collected in excess of the flat rates should be adjusted on the basis of the flat rates heretofore in effect.

You should notify your metered customers monthly of their meter readings and of their charge in case the metered rates were effective.

We shall appreciate early advice from you stating that the instructions herein contained will be carried out.

Yours truly,

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

By MAX THELAN,
President."

Thereafter Spring Valley Water Company requested that the directions contained in the letter of November 2, 1916, be modified so as to provide, in effect, that whenever a meter has been installed for three months, Spring Valley Water Company shall have the right to charge meter rates to be established immediately by the Railroad Commission, without waiting for February 1, 1917, or the further order of the Railroad Commission.

Spring Valley Water Company represents that it does not desire to increase its gross revenue from metered residence services over the revenue which would have been secured under the flat rates heretofore in effect and offers to enter into arrangements with the Railroad Commission, from time to time, as may be necessary, to readjust the rates to be initially established for metered service so that the gross revenue shall not be increased.

In support of this request for modification, Spring Valley Water Company presented a number of arguments which we shall hereinafter consider. First, however, an analysis should be made of the rates established by said Ordinance No. 3346 (new series) of the board of supervisors.

This ordinance establishes rates as follows:

Section 1—Flat rates for buildings occupied by one or more families.

Section 2—Flat rates for bathing tubs.

Section 3—Flat rates for horses and cows.

Section 4—Flat rates for boarding and lodging houses.

Section 5—Flat rates for the irrigation of private gardens and private grounds.

Section 6—Flat rates for water closets.

Section 7—Flat rates for urinals and stationary washstands.

Section 8—Flat rates for building purposes and meter rates or the equivalent thereof for stores, banks, bakeries, offices, warehouses, saloons, groceries, eating houses, barber shops, butcher shops, book binderies, blacksmith shops, confectioneries, hotels, lodging houses, boarding houses, churches, halls, laundries, photograph galleries, printing offices, steam engines, greenhouses, markets, market stalls, horse troughs, soda fountains and other places of business.

Section 9—Meter rates for pipes used specially for fire protection.

Section 10—Meter rates for all purposes not before specified, including shipping.

Section 11—Flat rates for public hydrants.

Section 12—Meter rates in cases of waste or excessive use.

Under this ordinance, the only lawful meter rates for water in effect in the city and county of San Francisco are for (1) places of business (section 8), (2) pipes used specially for fire protection (section 9),

(3) water furnished for any and all purposes not embraced in the first nine sections of the ordinance, including water for shipping (section 10), and (4) wasteful and excessive use (section 12).

Apart from the question of wasteful or excessive use, to which we shall hereinafter give further consideration, the rates prescribed for dwelling houses and all uses incidental thereto, are prescribed in the first seven sections of the ordinance and are all *flat* rates. Furthermore, section 12 specifically provides as follows:

"In no case where the fixed rates above provided other than meter rates, are applicable, shall any charge for water be made by meter rates, it being the purpose of this ordinance to provide for all dwelling houses a fixed monthly rate which shall not be increased by the person, company or corporation supplying water."

Hence, apart from the question of wasteful or excessive use, it conclusively appears that under the rates prescribed by this ordinance Spring Valley Water Company does not at this time have any lawful right to make any meter charges whatsoever for water supplied to "dwelling houses."

Section 12 further provides that meters may be installed "for the purpose of discovering and repressing waste or excessive use" and that "for waste or excessive use thereafter occurring" in excess of such an amount of water as shall exceed by 50 per cent the number of cubic feet which at regular meter rates amount to the consumer's rated bill, the water company may charge "at regular meter rates," by which we assume that the meter rates prescribed in section 10 of the ordinance are meant. The section contains a proviso that the charge for wasteful or excessive use shall not exceed \$2.00 for the first month, \$4.00 for the second month and \$5.00 for any following month. The section contains other provisions to which it is not now necessary to refer.

It thus clearly appears that, apart from the question of wasteful or excessive use, there is no provision in the ordinance by which Spring Valley Water Company can lawfully charge a meter rate in connection with any of the meters on dwelling house services which have been metered on and subsequent to July 31, 1916, or, in fact, in connection with its service to any "dwelling house" whatsoever.

The request of Spring Valley Water Company accordingly resolves itself into a request that the Railroad Commission now establish meter rates which rates shall be applicable to all dwelling houses after the meter has been in service for three months. The request is not that such rates be established and effective after the usual rate proceeding has been initiated, carried forward, submitted and decided, but that such rates be established by the Railroad Commission in advance of such proceeding and in the absence of the presentation of the detailed

and exhaustive evidence which must be offered and analyzed before the Railroad Commission can establish rates which will be sustained by the courts. In other words, the Railroad Commission is asked to establish some sort of meter rates immediately, without knowledge of the facts on which alone the Railroad Commission could base a judgment as to their justice and reasonableness, and to modify them, month by month, if it appears that the meter rates thus established yield a gross revenue greater than if the flat rates for dwelling houses heretofore and now in effect, had continued to be applicable.

This is not a case of asking the Railroad Commission to permit a meter rate to become effective when the ordinance provides *alternative* flat and meter rates for dwelling house service. The ordinance here under consideration expressly refuses to provide meter rates for service to dwelling houses except with reference to wasteful or excessive use.

The suggestion that justice will be done if the gross revenue from such meter rates does not exceed the gross revenue from the flat rates applicable to the same dwelling houses is not persuasive for the reason that the Railroad Commission does not know whether the flat rates are just and reasonable and can not know until complete evidence bearing on just and reasonable rates has been presented in the usual formal rate proceeding and carefully considered in its entirety by the Railroad Commission.

That the substitution of meter rates for the existing flat rates applicable to dwelling houses will increase the charges paid by at least a portion of the consumers of Spring Valley Water Company is admitted and in the very nature of things must be so unless the gross revenue from the dwelling house consumers as a whole is to be reduced below the gross revenue from the existing flat rates.

Section 63 (a) of the Public Utilities Act reads as follows:

“No public utility shall raise any rate, fare, toll, rental or charge or so alter any classification, contract, practice, rule or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.”

How can the Railroad Commission, in advance of the necessary evidence, make a finding that “such increase is justified”?

The Railroad Commission is asked to take the affirmative action of establishing temporary meter rates for dwelling houses, where no meter rates for dwelling houses now exist, and to do this without evidence as to the value of the property used and useful in the public service, reasonable maintenance and operating expenses, a just allowance for a depreciation annuity and the other elements which a rate making

body must know before it can act intelligently, justly or constitutionally. How could the commission, either in the consciences of its members or in the courts, defend rates thus made?

Nothing short of a most extraordinary situation would justify the granting of the request of the Spring Valley Water Company. We shall now consider the arguments urged by Spring Valley Water Company in order to ascertain whether such extraordinary situation actually exists.

First, Spring Valley Water Company urges that, with certain possible exceptions, its entire water system in the city and county of San Francisco should be metered. On this point, the Railroad Commission is in accord with Spring Valley Water Company, provided that meter rates shall not be charged unless such rates are fair, the minimum charge for metered service just and the measuring devices reliable. There is no reason, however, why Spring Valley Water Company should not proceed to install meters on all its remaining services which should be metered, even if the Railroad Commission refuses to grant the request herein. The Railroad Commission has publicly announced that it believes that, with possible exceptions, the system of Spring Valley Water Company should be metered and that as soon as possible the commission will establish meter rates to apply wherever meters are installed. There is nothing in the first argument of Spring Valley Water Company necessitating the granting of the company's request.

Second, Spring Valley Water Company urges that in order to prevent waste or excessive use, it is necessary for the company not merely to install meters but also to collect at meter rates. The company suggests that if meters are installed without the charge of meter rates, its customers will continue to be wasteful or to use excessive quantities of water. This conclusion by no means follows. Under section 12 of Ordinance No. 3346 (new series), of the board of supervisors, companies engaged in the sale of water in the city and county of San Francisco are specifically authorized, not merely to install meters, but also to charge at meter rates for all water running through the meters in excess of the quantities therein specified. Hence, Spring Valley Water Company has the power, under the water rates now in effect, to charge for water used wastefully or excessively and in this manner to take care of this particular situation. While said section No. 12 provides for a certain margin of water which may be used before the penalty for wasteful or excessive use attaches, we are not as yet in a position to say whether, on the final establishment of just and reasonable rates, at least a portion of this water may not be found justly due to the consumers under the compensation now charged by Spring Valley Water Company.

It will be assumed, of course, that Spring Valley Water Company will continue to take all reasonable steps to develop such additional water as may be needed to take care of the growing population of San Francisco.

Third, Spring Valley Water Company insists that it will not be possible in the formal rate proceeding which will hereafter be instituted, to fix and determine just and reasonable meter rates for residence services unless, in the meantime, practically all residence services have been metered and payment has been made on such services at meter rates. This contention of Spring Valley Water Company leaves out of consideration the fact that for some time prior to July 31, 1916, some 800 to 900 meters have been installed on residence services in San Francisco, that between July 31, 1916, and the present time, much additional valuable data has already been accumulated in connection with the meters which were installed during that time on residence services and that further valuable data will be secured between the present time and the submission of the formal rate proceeding which will hereafter be filed. This contention also leaves out of consideration the fact that even if meter rates should now be charged on all residence services, the amounts of water consumed through such meters would not necessarily be an accurate indication of the amounts of water which would be consumed at meter rates different from the meter rates which might now be established for such service.

Mr. William Mulholland, the builder of the Los Angeles aqueduct and now the manager of the water system of Los Angeles, a witness called by Spring Valley Water Company, was not in harmony with this contention of Spring Valley Water Company when he testified as follows:

"I believe that there are probably sufficient data to enable a pretty wise conclusion as to what would be the proper thing to do right now."

As far as the gross revenue of Spring Valley Water Company is concerned, the water company will not be injuriously affected if the present flat rates for dwelling houses are continued, for the reason that the company will continue to collect exactly the same rates which it has heretofore collected and its gross revenue will be exactly as large.

The Railroad Commission has publicly announced that in its opinion the only permanent solution of the water rate problem in the city and county of San Francisco is to have the commission, after complete and detailed evidence has been submitted, establish all the rates, both flat rates and meter rates, to be charged by Spring Valley Water Company in the city and county of San Francisco. Spring Valley Water Company has announced its purpose of filing a formal application asking the

Railroad Commission to establish all its rates. Until such application has been decided, no material injury can accrue to anyone by permitting the present flat rates for dwelling houses to continue in effect, subject to the right of Spring Valley Water Company to charge metered rates for wasteful or excessive use of water, as provided by section 12 of the ordinance adopted by the board of supervisors and now in effect.

In view of the fact that the status quo is to be maintained as established by the ordinance passed by the board of supervisors, until the Railroad Commission can permanently fix the rates to be charged by Spring Valley Water Company, we are of the opinion that no good purpose would be served by compelling Spring Valley Water Company to send to each customer each month a statement of what his bill would be if meter rates were in effect. The conclusive answer to such proposition is that at the present time there are no meter rates for dwelling house service, and the Railroad Commission does not have the evidence necessary to establish such rates. Hence nobody knows what meter rates Spring Valley Water Company should show on its bills if it sent them out showing the charges under assumed meter rates. We suggest, however, to Spring Valley Water Company that wherever the meters show an apparently abnormal use of water, the company's representatives should draw the matter to the attention of the consumer so that the cause of such excessive use may be ascertained and thereafter prevented.

Having reached the conclusion that it would be inadvisable to grant the request of Spring Valley Water Company, this proceeding should be dismissed.

ORDER.

A public hearing having been held in the above entitled proceeding and the Railroad Commission being fully advised,

It is hereby ordered that Spring Valley Water Company charge and collect the rates for water prescribed by Ordinance No. 3346 (new series) of the board of supervisors now on file with the Railroad Commission, that the request of Spring Valley Water Company for a modification of the letter of November 2, 1916, be and the same is hereby denied, and that the above entitled proceeding be and the same is, in all other respects, hereby dismissed.

Dated at San Francisco, California, this 6th day of January, 1917.

DECISION No. 3981.

IN THE MATTER OF THE APPLICATION OF TROPICO CITY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCKS AND BONDS BY SAID CORPORATION, AND FOR THE CONVEYANCE TO IT OF THE WATER SYSTEM SITUATED IN THE CITY OF TROPICO, STATE OF CALIFORNIA, NOW OWNED, OPERATED AND CONTROLLED BY THE TITLE GUARANTEE AND TRUST COMPANY, A CORPORATION, AS TRUSTEE FOR THE BOND-HOLDERS OF THE GLENDALE CONSOLIDATED WATER COMPANY.

Application No. 2660.

Decided January 6, 1917.

Tropico City Water Company applies for permission to issue \$49,700.00 par value of its capital stock and \$50,000.00 face value of its 20-year bonds, both stock and bonds to be issued at 90, in exchange for the water system held by the title company.

The amount of stock and bonds issued for the purposes of reorganizing a defunct utility should bear an equitable ratio to the value of its physical properties. The engineers of the commission heretofore found the sum of \$48,360.00 to be the reproduction cost less depreciation of the physical properties herein under consideration, and though amounts have subsequently been expended for additions and betterments, the amount of stock and bonds proposed to be issued is too large.

Title company authorized to transfer water properties in the city of Tropico to the Tropico City Water Company, and the latter company authorized to issue \$34,000.00 par value of stock and \$30,000.00 par value of bonds in exchange therefor. Proposed deed of trust to be first approved by the commission.

W. G. Cooke, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

In this application Title Guarantee and Trust Company asks authority to sell and transfer the water system situated in the city of Tropico to the Tropico City Water Company. In payment of said property, the purchasing company proposes to issue \$49,700.00 par value of common capital stock and \$50,000.00 face value of 6 per cent 20-year bonds. The stock is to be issued on the basis of \$90.00 per share and the bonds at 90 per cent of their face value plus accrued interest.

Tropico City Water Company was organized in September, 1916, with an authorized capital stock of \$50,000.00 divided into 500 shares, each having a par value of \$100.00. The company was organized for the specific purpose of acquiring the property to which reference is made in this application.

The property to be sold and transferred is a part of the property formerly owned by Glendale Consolidated Water Company, whose properties, under a foreclosure sale were sold to Title Guarantee and Trust Company, trustee under the mortgage securing the payment of the bonds. Since the acquisition of the properties by the trust company, it has sold a portion thereof to the city of Los Angeles (Vol. 4,

Opinions and Orders of the Railroad Commission of California, page 1357) and a portion to city of Glendale (Vol. 5, Opinions and Orders of Railroad Commission of California, page 381). The Trust Company still owns three parcels of the Glendale Consolidated Water Company properties, one covered by this application and located in Tropic, one in the city of Los Angeles, and one in the city of South Pasadena.

A general description of the property which Title Guarantee and Trust Company proposes to sell to Tropic City Water Company is found in Decision No. 3275, dated April 21, 1916, in which decision the commission fixed the rates to be charged by Title Guarantee and Trust Company in the city of Tropic. For a specific description of the properties reference is hereby made to Exhibit "A." attached to this decision.

Applicants have reported operating revenues and expenses to this commission as follows:

Item	1914	1915	Eleven months, 1916
Operating revenue	\$11,276 47	\$11,673 23	\$12,368 42
Operating expenses	6,153 62	6,263 72	5,117 00
Net operating revenue.....	\$7,812 85	\$8,409 51	\$7,221 42

The commission estimates that the rates fixed by it, in said Decision No. 3275, will yield operating revenues in the sum of \$12,750.00, and that the operating expenses, together with an allowance for depreciation, will be \$7,630.00, leaving \$5,120.00 available for payment of interest or dividends.

In said Decision No. 3275 the engineers for the commission estimated the reproduction cost less depreciation of the used and useful tangible properties, covered by this application at \$48,369.00. Since said appraisal, Title Guarantee and Trust Company reports the expenditure of \$3,549.73 for extensions and improvements to the system. In addition there is to be transferred to Tropic City Water Company about fifty-six hundredths of an acre of land well adapted for a future reservoir site and the right to 18 miner's inches of water in Verdugo Canyon. The reservoir site has been appraised by various parties at from \$1,120.00 to \$1,350.00. A value for the water rights of applicant was also given consideration to the extent we believe to be necessary in this proceeding.

In Decision No. 3275, dated April 21, 1916, the commission says, in reference to these properties:

"At the time set for hearing the case, the city of Tropic, by its city attorney, requested that the hearing be continued to some future date to permit the question of issuing bonds by the city for such purpose to be again submitted to the voters. It was stated

that the property, including water rights and water stock, had been offered to the city at a tentative price of \$50,000.00. The statement was made with the understanding that the offer should not be considered by the commission as evidence of value."

The offer of \$50,000.00 was never submitted to the voters of the city of Tropic, who a few years ago rejected a proposition relating to the purchase of this water system.

L. C. Brand, president of Title Guarantee and Trust Company and Tropic City Water Company, in reply to a question relating to the issue of the stock and bonds of Tropic City Water Company, said:

* * * "We thought if we would form this company that we could sell it to much better advantage by selling the stock to some individuals or parties than we could to sell the plant outright; if necessary we could take part of the bonds ourselves in payment of what was owing us, and turn the balance over to the creditors of the Consolidated Water Company" (Transcript, page 8).

This is not a condemnation nor rate fixing proceeding, but is an application involving the issue of stock and bonds to acquire properties now held by Title Guarantee and Trust Company, as trustee, for the bondholders of Glendale Consolidated Water Company and predecessors in interest. We are concerned here with the reorganization of a defunct corporation, though only a portion of the property once owned by said defunct corporation is covered by this application. I believe that the amount of stock and bonds which Tropic City Water Company proposes to issue in exchange for the properties in question is in excess of the amount justified by existing conditions. I am of the opinion that when a corporation is being reorganized for reasons such as confront the commission in this instance, the new corporation should issue stock and bonds in an amount closely approximating the fair and reasonable value of the properties. In this instance the Tropic City Water Company asks authority to issue bonds in an amount equal to practically the depreciated cost new of its physical property.

I believe that the stock and bonds issued by Tropic City Water Company in exchange for the properties which it proposes to acquire should be in such amounts that the stock, as well as the bonds, may be reasonably expected to have a value upon which earnings may reasonably be anticipated. I, therefore, recommend that Tropic City Water Company be permitted to issue to Title Guarantee and Trust Company in payment of the properties set forth in Exhibit "A," attached to this decision, common capital stock in the amount of \$34,000.00 and 6 per cent 20-year bonds in the amount of \$30,000.00.

Inasmuch as applicant has not submitted for approval its proposed deed of trust, it is, of course, obvious that the authority to issue bonds will be subject to the filing and approval of the deed of trust.

I herewith submit the following form of order:

ORDER.

Title Guarantee and Trust Company, having applied to this commission to sell to Tropico City Water Company, a certain water system situated in the city of Tropico, in exchange for \$49,700.00 par value of stock and \$50,000.00 face value of 6 per cent 20-year bonds, and a public hearing having been held, and it further appearing to this commission that the purposes for which it is proposed to issue the stock and bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Title Guarantee and Trust Company be and it is hereby authorized to sell to the Tropico City Water Company a certain water system situated in the city of Tropico, more specifically described in Exhibit "A" attached hereto.

It is hereby further ordered that Tropico City Water Company be and it is hereby authorized to issue \$34,000.00 par value of its common stock as part payment of the purchase price for the aforesaid water system.

It is hereby further ordered that Tropico City Water Company be and it is hereby authorized to issue \$30,000.00 face value for 6 per cent 20-year bonds as part payment of the purchase price of the aforesaid water system.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock and bonds herein authorized to be issued shall be issued concurrently and be received by Title Guarantee and Trust Company as full payment for the water system authorized to be sold and transferred to Tropico City Water Company.

2. Tropico City Water Company shall not issue the bonds herein authorized until it has obtained from this commission a supplemental order approving the deed of trust securing the payment of the bonds herein authorized to be issued.

3. The price herein authorized to be paid for the property, which is to be transferred, shall not be binding upon the Railroad Commission of the State of California, or any other regulatory body, in fixing prices for the service of said water company, or the value of said properties in condemnation or other proceedings.

4. Within thirty days after the transfer of the properties herein authorized to be sold applicant shall file with this commission a copy of the deed of conveyance.

5. Within thirty days after the issue of the stock and bonds hereby authorized to be issued, applicant shall file with this commission a statement showing the purpose for which said stock and bonds have been issued.

6. This order shall not become effective until Tropico City Water Company has paid the fee specified in section 57 of Public Utilities Act.

7. The authority herein granted shall apply only to such stock and bonds as may be issued on or before April 15, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of January, 1917.

EXHIBIT "A."

The property which Title Guarantee and Trust Company proposes to sell to Tropico City Water Company is described by applicants as follows:

That certain water system, situated in the City of Tropico, County of Los Angeles, State of California, now owned, operated and controlled by the said party of the first part, and known as the Tropico City Water System, together with all water and water rights, rights of way, pipes, pipe lines, flumes and ditches, wells, pumping plants, machinery, reservoirs and reservoir sites, and all other appurtenances connected therewith, including the following parcels of real estate, to wit:

Part of Lot Three (3) of the Childs Tract, in the Rancho San Rafael, in the County of Los Angeles, State of California, as per map recorded in Book 5, page 157, Miscellaneous Records of said County, described as follows:

Beginning at the Northeast corner of said lot; thence South along the East line of said lot four and five hundred forty-five thousandths (4.545) chains; thence North eighty-nine (89°) degrees forty-five minutes (45') West, three and seventy-four hundredths (3.74) chains; thence North four and five hundred forty-five thousandths (4.545) chains to the North line of said lot; thence East along said North line three and seventy-four hundredths (3.74) chains to the place of beginning; containing two (2) acres, more or less;

Also, that part of Lot Fifteen (15) in Block "B" of the Heide-Boynton Tract, in the Rancho San Rafael, County of Los Angeles, State of California, as per map recorded in Book 12, page 80 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the Southeast corner of said lot; thence Northerly along the East line thereof two hundred (200) feet; thence North 88° 34' West, two hundred eighteen and sixty-three hundredths (218.63) feet; thence Northwesterly parallel with the Southwesterly line of said lot one hundred twenty-nine and sixteen hundredths (129.16) feet, more or less, to a point in the Easterly line of the land conveyed by Henry Heide and Ethel Frances Heide to D. Griswold, by Deed dated April 8, 1908, filed for record April 30, 1908, at or near an angle in said line; thence Southwesterly along said Easterly line of said land so conveyed to said Griswold twenty (20) feet, more or less, to the Southwesterly line of said lot; thence Southeasterly along said Southwesterly line four hundred fourteen and six hundredths (414.06) feet to the most Southerly corner of said lot; thence Easterly along the South line of said lot eighteen and forty-eight hundredths (18.48) feet, to the place of beginning.

Also, Lots one (1) and Two (2) of Block Two (2) of Breedlove's Subdivision of a part of Lots Eight (8), Nine (9) and Ten (10), Watts' Subdivision of a part of Rancho San Rafael, in the County of Los Angeles, State of California, as per map recorded in Book 10, page 94 of Maps, in the office of the County Recorder of said County.

DECISION No. 3982.
CITY OF HUNTINGTON BEACH
vs.
HUNTINGTON BEACH COMPANY.
Case No. 480.

IN THE MATTER OF THE APPLICATION OF HUNTINGTON BEACH
COMPANY FOR PERMISSION TO INCREASE RATES FOR WATER
SERVICE.

Application No. 791.

Decided January 6, 1917.

BY THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

Huntington Beach Company having filed an application for rehearing in these proceedings, and the commission being of the opinion that there is no good reason why a rehearing should be had,

It is hereby ordered that said application for rehearing be and the same hereby is denied.

Dated at San Francisco, California, this 6th day of January, 1917.

DECISION No. 3983.
UNION HOLLYWOOD WATER COMPANY
vs.
PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 546.

Decided January 6, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Both the parties to this proceeding having on January 3, 1917, made written request to this commission that the complaint herein be dismissed,

It is hereby ordered that the complaint herein be and the same hereby is dismissed.

Dated at San Francisco, California, this 6th day of January, 1917.

DECISION No. 3984.

IN THE MATTER OF THE APPLICATION OF TITLE GUARANTEE AND TRUST COMPANY, TRUSTEE FOR THE BONDHOLDERS OF THE GLENDALE CONSOLIDATED WATER COMPANY, FOR LEAVE TO SELL TO THE CITY OF LOS ANGELES PIPE LINES, CONNECTIONS, FRANCHISES, RIGHTS OF WAY, CONNECTED WITH THE WATER SYSTEM NOW OWNED, OPERATED AND CONTROLLED BY SAID TITLE GUARANTEE AND TRUST COMPANY, AND LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF LOS ANGELES.

Application No. 2705.

Decided January 6, 1917.

Applicant authorized to lease to the city of Los Angeles, with option to purchase for the sum of \$8,540.55, that portion of the water system, formerly known as the Glendale Consolidated Water Company, lying within the incorporate limits of said city.

BY THE COMMISSION.

ORDER.

Title Guarantee and Trust Company, trustee for the bondholders of the Glendale Consolidated Water Company, having applied for authority to lease with an option of purchase to the city of Los Angeles certain public utility water company properties situated within said city, said lease and option of purchase to be in accordance with the terms and conditions of an agreement entered into on December 27, 1916, between Title Guarantee and Trust Company, party of the first part, and city of Los Angeles, party of the second part, which agreement is appended to the application herein and in so far as material to this proceeding provides:

“That the said party of the first part, in consideration of the rents, covenants and agreements to be paid and performed on the part of the said party of the second part, and hereinafter set out, does hereby (provided the consent of the Railroad Commission of the State of California is given) lease to said party of the second part and grant to it the option to purchase that part of the water system owned by said party of the first part as trustee for the bondholders of the Glendale Consolidated Water Company, and located within the corporate limits of said city of Los Angeles, which said water system includes all pipe lines used in its distributing system, franchises, pipe lines, and rights of way, which it owns and is now operated by it, and known as the Beardstown, Rose Hill and Sierra Vista districts, the pipe lines located in said districts are marked for better identification on the map hereto attached, and marked Exhibit “B.” and made a part hereof, and located within the boundaries of said city of Los Angeles, except all water meters and 2,288 feet of two-inch pipe, which has heretofore

been disposed of by and with the consent of the said party of the second part, a tabulated list of the property covered by this agreement is hereto attached and marked Exhibit "A" and made a part hereof, together with certain extensions and improvements, which has been made and installed with the consent of said party of the second part, the cost and expense of such installation is hereto attached and marked Exhibit "C" and made a part hereof; for the term of three months from the date hereof, for the sum of eighty-five hundred forty and 55/100 dollars (\$8,540.55), payable as follows, to wit: \$3,540.55 or more in cash and before possession or control of said water system is delivered to said city of Los Angeles, and the balance within thirty days from the date on which said Railroad Commission of the State of California enters its order giving said party of the first part herein its consent to the carrying out of this agreement, said deferred payment shall bear interest at the rate of 6 per cent per annum, to be paid at the time the final payment is made.

"Should the said party of the second part within the time specified exercise its option to purchase said property hereby leased, and shall have paid to said party of the first part the full sum of \$8,540.55, together with all interest due thereon as aforesaid, in the manner and at the times hereinabove stated, then the said party of the first part, its successors or assigns, will execute and deliver to said party of the second part, a good and sufficient bill of sale or deed of conveyance of all of said property, as hereinabove set out and described, subject to any and all taxes and assessments levied or assessed against said property, said bill of sale or deed of conveyance shall be executed by said party of the first part, and shall be approved by said party of the second part, immediately after the consent of the Railroad Commission of the State of California is given, authorizing the carrying out of this agreement, and be deposited in escrow with the Title Guarantee and Trust Company for delivery on the date when said purchase price has been fully paid."

And it appearing to the Railroad Commission that this application should be granted, and that this is not a case in which a public hearing is necessary, and with the understanding that the amounts stated in said agreement as consideration for the lease or purchase of said property are not to be taken before this Commission or any other body as representing the value of said property for rate fixing or other purposes,

It is hereby ordered that the Railroad Commission hereby approves the lease and transfer of said public utility property in accordance with the terms of said agreement.

Dated at San Francisco, California, this 6th day of January, 1917.

Decision No. 3985, grade crossing: not printed. See end of volume.

DECISION No. 3986.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE FOUR HUNDRED EIGHTY-FIVE THOUSAND FIVE HUNDRED EIGHT SHARES OF ITS COMMON STOCK OF THE PAR VALUE OF ONE DOLLAR PER SHARE.

Application No. 2604.

Decided January 8, 1917.

Applicant's president holds in special trust \$2,000,000.00 par value of its capital stock; of this amount it is authorized to release \$250,000.00 par value in return for promotion and organization services and the deeding to applicant of certain tracts of land for right of way purposes, the balance, amounting to \$1,750,000.00 par value, to be returned to applicant's treasury and canceled, provided that the \$250,000.00 par value of stock shall not be sold and shall be held secondary to other stock of applicant for a period of five years.

Applicant also authorized to issue \$30,000.00 par value of its common stock to be issued in exchange for a like face value of its preferred stock.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

Tidewater Southern Railway Company has outstanding 945,703 shares of stock of the par value of \$1.00 per share. Of this stock, 30,000 shares of the par value of \$1.00 per share are preferred and the balance are common. In addition, there is outstanding a certificate for 2,000,000 shares of common stock, which is held by Mr. Byron A. Bearce under an agreement that said certificate shall in 1919 be returned to applicant's treasury and canceled.

In its order in Application No. 2604, dated December 13, 1916, Decision No. 3931, this commission authorized the applicant herein to sell 600,000 shares of its common stock at not less than 80 cents per share, and to use the proceeds for paying note indebtedness and for extending its line of railway southward in the San Joaquin Valley.

In said Application No. 2604, Tidewater Southern Railway Company also requested authority to issue 250,000 shares of its stock to Mr. Byron A. Bearce in return for certain properties and services and upon surrender by Mr. Byron A. Bearce to the Tidewater Southern Railway Company of the certificate for 2,000,000 shares heretofore referred to. At the hearing upon this matter, Mr. Bearce asked that the request for the issue of 250,000 shares of stock to himself be held in abeyance.

Under date of December 27, 1916, Tidewater Southern Railway Company asked this commission to proceed to a determination of its request "to terminate the special trust created for 2,000,000 shares of

its common stock by freeing therefrom 250,000 shares and canceling the balance of 1,750,000 shares."

The applicant also requests the commission to authorize it to exchange common stock share for share for its outstanding preferred stock, so as to retire the preferred stock.

The status of the certificate of 2,000,000 shares of applicant's stock now held by Mr. Byron A. Bearce is set forth in this commission's Decision No. 116 (Vol. I, page 232, Opinions and Orders of the Railroad Commission of California). It appears that 2,000,000 shares of stock were issued by the Tidewater and Southern Transit Company to Mr. Bearce prior to March 23, 1912, the effective date of the Public Utilities Act; that the Tidewater and Southern Transit Company was later consolidated with the Tidewater and Southern Railroad Company into a new corporation known as Tidewater Southern Railway Company, and that Mr. Bearce was entitled under the terms of the consolidation to receive 2,000,000 shares of stock of the new company—Tidewater Southern Railway Company. The commission thereupon in Decision No. 116, heretofore referred to, authorized Tidewater Southern Railway Company to issue 2,000,000 shares of its stock to Mr. Bearce to carry out the terms of the agreement, which had been duly entered into prior to the effective date of the Public Utilities Act. The authorization, however, carried as a condition the requirement that Mr. Bearce should file with the treasurer of Tidewater Southern Railway Company a written agreement to deliver to said applicant for cancellation on or before seven years from July 1, 1912, this certificate for 2,000,000 shares of common stock and that the certificate should be presented to the Railroad Commission for endorsement thereon of the following words:

"Issued for voting purposes only. Not to be transferred, and to be canceled and returned to the treasury on or before July 1, 1919, as provided in agreement dated July 1, 1912, between Byron A. Bearce and Tidewater Southern Railway Company."

It appears that the 2,000,000 shares of stock of Tidewater and Southern Transit Company were issued to Mr. Bearce for certain rights of way between Turlock and Fresno.

It is now proposed that Mr. Byron A. Bearce shall turn over to the applicant rights of way and other properties and shall retain 250,000 shares of said 2,000,000 shares of stock as compensation for these properties and in payment for his service in promoting, organizing, financing and managing the Tidewater Southern Railway Company to date.

It is fitting that Mr. Bearce should be compensated both for the properties he proposes to deed to the railway and for the services he has performed in its behalf. It is not possible accurately to measure

the value of the services such as Mr. Bearce has rendered, but in a case involving the construction of a railroad from Blythe to Blythe Junction, a project of lesser magnitude than Tidewater Southern Railway Company, the commission fixed the compensation of the projectors of the enterprise at \$75,000.00 payable in stock.

The value of the assets to be conveyed by Mr. Bearce to the railway company has been estimated by him at \$60,000.00.

It is the intention of Mr. Bearce and others whom he has interested in this project to provide further funds in substantial amounts for the extension and development of this railway enterprise.

If this matter were before this commission as an original proposition to authorize the issue of 250,000 shares of stock for the services of Mr. Bearce and his associates and for the assets which he proposes to convey to the railway, I should be inclined to hold that the compensation was extremely liberal.

I believe it distinctly to the advantage of the other shareholders in this enterprise, in view of all the circumstances involved, that the certificate of 2,000,000 shares be forthwith reduced to 250,000 shares.

Mr. Bearce has brought into association with himself in the railway project, interests which will provide money as needed for the further financing of the undertaking. Further extensions of the railway are contemplated and the funds now provided and in prospect appear to assure the full commercial development of the enterprise.

At the same time, I believe that the 250,000 shares of stock allowed to remain outstanding out of this certificate of 2,000,000 shares should be so held as to give prior position to all of the other stock and the order will so provide. In this way the interests of the other stockholders in this enterprise will not only be amply protected but will be given the full benefit of the new funds to be provided.

Provision has been made in this commission's Decision No. 3931, heretofore referred to, for the creation of a trust of 125,000 shares of stock. That feature may now be extinguished and a trust of 250,000 shares created out of the certificate of 2,000,000 shares heretofore referred to. This stock shall remain impounded to the extent of 250,000 shares, and shall be required to take a secondary position as to the assets of the railway for a period of five years. At the end of that period, by reason of the funds now and hereafter to be invested, it may reasonably be permitted to share on an even basis with the other stock.

Applicant's request to exchange its preferred stock for common stock, so as to eliminate the preferred stock, is wholly reasonable and will entail the issue of 30,000 shares of common stock to retire a like number of shares of preferred stock.

We recommend that the application be granted, subject to the conditions contained in the order herein.

FIRST SUPPLEMENTAL ORDER.

Tidewater Southern Railway Company having applied to the Railroad Commission for a modification of its order heretofore issued in Application No. 38 (Vol. I, page 232, Opinions and Orders of the Railroad Commission of California) by terminating the special trust created for 2,000,000 shares of its common stock by freeing therefrom 250,000 shares and canceling the balance of 1,750,000 shares, and Tidewater Southern Railway Company having further requested authority to issue 30,000 shares of its common stock of the par value of \$1.00 per share in exchange for 30,000 shares of its preferred stock of the par value of \$1.00 per share, and a public hearing having been held, and it appearing that the purposes for which it is proposed to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that this Commission's decision No. 116 in the matter of Application No. 38 (Vol. I, page 232, Opinions and Orders of the Railroad Commission of California) be modified by permitting the applicant herein—Tidewater Southern Railway Company—and Byron A. Bearce to terminate the special trust created for 2,000,000 shares of its common stock by freeing therefrom 250,000 shares and surrendering and canceling the balance of 1,750,000 shares.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Of the 2,000,000 shares of applicant's common stock held by Mr. Byron A. Bearce under special agreement as heretofore referred to, 1,750,000 shares shall be returned to applicant's treasury, to be issued thereafter only upon the approval of this commission.

2. Of the remaining 250,000 shares of said certificate of 2,000,000 shares, a special trust shall be created by the terms of which the holder of said shares or an equivalent amount of stock to be designated by Mr. Byron A. Bearce, shall agree to withhold said 250,000 shares from sale for a period of five years from date and shall further agree that in case of the sale of the properties of Tidewater Southern Railway Company—on or before five years from date, said 250,000 shares of stock shall be entitled to participate in the benefits of said sale only after the balance of the outstanding stock of Tidewater Southern Railway Company shall have been paid at the rate of \$1.00 per share or only after an amount equal to \$1.00 per share for the balance of the outstanding stock shall have been duly deposited in a bank or banks for the benefit of the holders of said stock.

3. The agreement, providing for the creation of a trust for the 250,000 shares of applicant's stock, as set forth in the preceding paragraph, shall be in a form satisfactory to this commission, to be approved by this commission in a supplemental order.

4. The 250,000 shares of stock to be held as a special trust as set forth in the two preceding paragraphs shall be so held for the benefit of Mr. Byron A. Bearce, or his nominee or nominees in compensation for properties to be deeded by said Byron A. Bearce to Tidewater Southern Railway Company, as set forth in Exhibit C, filed in connection with this application, and in full compensation for the services of Mr. Byron A. Bearce and associates in promoting, organizing, financing and operating said railway to date.

5. The authorization herein shall not be binding upon this commission, or other tribunal, as a recognition of any particular value to be attached to the services of Mr. Byron A. Bearce or the property to be conveyed by him to Tidewater Southern Railway Company as described in the foregoing opinion.

It is hereby further ordered that Tidewater Southern Railway Company be granted authority, and it is hereby granted authority, to issue 30,000 shares of its common stock of the par value of \$1.00 per share in exchange for 30,000 shares of applicant's preferred stock of the par value of \$1.00 per share.

It is hereby further ordered that condition No. 4 of this commission's Decision No. 3931 in the above entitled matter and reading as follows:

"No. 4. This order shall not become effective until Byron A. Bearce shall have impounded in a manner suitable to the Railroad Commission, \$125,000.00 par value of stock of Tidewater Southern Railway Company held by him, and shall have received from the Railroad Commission a supplemental order stating that this has been done,"

be and the same is hereby vacated and annulled.

The authority herein granted is granted upon the further conditions and not otherwise:

(a) Applicant shall report to this commission on the twenty-fifth day of each month, stating in detail the action taken by it in pursuance of the order herein.

(b) The order herein given shall apply to such stock as shall have been issued and to such agreement as shall have been entered into in relation to applicant's stock on or before June 30, 1917.

Dated at San Francisco, California, this eighth day of January, 1917.

DECISION No. 3987.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION, ORO WATER, LIGHT AND POWER COMPANY, OROVILLE LIGHT AND POWER COMPANY, OROVILLE WATER COMPANY, AND PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID ORO ELECTRIC CORPORATION, ORO WATER, LIGHT AND POWER COMPANY, OROVILLE LIGHT AND POWER COMPANY AND OROVILLE WATER COMPANY TO SELL AND CONVEY TO PACIFIC GAS AND ELECTRIC COMPANY CERTAIN PROPERTIES; AND AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY TO ISSUE ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO USE THE PROCEEDS TO PAY FOR SAID PROPERTIES.

Application No. 2407.

Decided January 8, 1917.

Application to transfer properties of the Oro companies to the Pacific company granted, provided the Pacific company shall file stipulations to the effect that it shall not hereafter claim a value for any franchise or permit transferred in excess of the actual original cost thereof, that it shall place the Thermalito irrigation system in first class condition and shall pursue a liberal policy in making extensions into undeveloped territory. Pacific company to file accurate descriptions of the property to be acquired, in which Oro company has constructed transmission and distributing lines under permits secured from this commission, which permits the Pacific company hereafter intends to operate under.

Pacific company authorized to issue general and refunding mortgage bonds at not less than 90 in such amounts so as to realize the sum of \$1,491,151.35 for the purpose of reimbursing its treasury covering expenditures made in the purchase of bonds of the Oro Electric Company.

Held. 1. The transfer of contracts for service, at rates in excess of the usual rate for the class of service rendered, as part consideration in the consolidation of two competing companies is not looked upon with favor. Such contracts can not be considered as binding upon the commission or in any way affecting its power to alter the present schedules.

2. The fact that a particular utility will benefit by a consolidation of competing companies is not in itself sufficient reason to warrant the commission in authorizing such consolidation, it must be shown that the public will also benefit thereby. It is agreed by the Pacific company, in the present instance, to rehabilitate certain considerably depreciated properties of the Oro company.

3. The Pacific company proposes to abandon all franchises and permits obtained by the Oro companies covering territory which they have not as yet attempted to develop. The commission holds that though it has heretofore favored regulated monopolies, if such monopolies propose to serve only paying territory and refuse to extend lines into undeveloped territory, such policy will prove detrimental instead of beneficial to the state. The Pacific company is expected to pursue a liberal policy in making extensions into undeveloped territory.

Goodfellow, Ells, Moore & Orrick, by W. H. Orrick, for Oro Electric Corporation, Oro Water, Light and Power Company, Oroville Light and Power Company and Oroville Water Company.

Wm. B. Bosley and C. P. Cutten, for Pacific Gas and Electric Company.

- H. F. Jackson* for Sierra and San Francisco Power Company.
H. W. Gallet, for Minority Stockholders of Cataract Gold Mining and Power Company.
E. D. Brereton, for property owners of Thermalito.
THELEN, Commissioner.

OPINION.

Oro Electric Corporation, Oro Water, Light and Power Company, Oroville Light and Power Company and Oroville Water Company, hereinafter referred to collectively as the Oro corporations, ask authority to sell and convey to Pacific Gas and Electric Company, with certain exceptions, their entire public utility properties, both operative and nonoperative, and Pacific Gas and Electric Company asks authority to acquire said properties for the price hereinafter indicated and to issue its general and refunding mortgage gold bonds at not less than 90 per cent of their face value, plus accrued interest, in an amount sufficient to pay for said properties.

The properties to be sold and conveyed by the Oro corporations are described in exhibits numbers A, B and C, which are attached to and made a part of this opinion and order.

The petition alleges, in effect, that Oro Electric Corporation is engaged in the business of selling electric energy for light, heat and power in the county of Butte, including the city of Oroville, and in the counties of Yuba, Amador, Calaveras and San Joaquin, including a part of the city of Stockton, and of storing, distributing and selling water for domestic and irrigation uses in the county of Butte and elsewhere; that Oro Water, Light and Power Company since 1905 has been engaged in the production and sale of gas for light, heat and power purposes and in the sale and distribution of water for domestic and irrigation purposes in the county of Butte, including the city of Oroville; that Oroville Light and Power Company is the owner of a gas plant and distributing system in the city of Oroville and of a certain electric distributing system in the city of Oroville; that Oroville Water Company, formerly engaged in the sale and distribution of water, has transferred to Oro Water, Light and Power Company all its properties with the exception of certain land which has not been dedicated to the public service, and that Oroville Water Company has not been operating its property since prior to March 23, 1912; that Butte and Tehama Power Company, Sierra Irrigation Company and Cataract Gold Mining and Power Company, mentioned in the agreement hereinafter referred to, have dedicated none of their property to the public service; and that Pacific Gas and Electric Company for many years last past has been engaged and is now engaged in the production, generation, transmission, delivery and sale of electric energy and of gas for light,

heat and power and in the sale and distribution of water for domestic uses and for power and irrigation purposes in different counties in northern and central California and in the cities and towns therein, and in the construction and operation of street railways. With the exception of Cataract Gold Mining and Power Company, a corporation organized and existing under and by virtue of the laws of South Dakota, all the companies herein referred to are California corporations.

The petition further alleges that Oro Electric Corporation owns the entire issued capital stock of Oro Water, Light and Power Company; that Oro Water, Light and Power Company owns the entire issued capital stock of Oroville Water Company and of Oroville Light and Power Company, 22,206 shares of the total issue of 33,106 shares of the capital stock of Butte and Tehama Power Company, and 1,265,300 shares of the total issue of 1,826,987 shares of the capital stock of Cataract Gold Mining and Power Company, and that Butte and Tehama Power Company owns the entire issued capital stock of Sierra Irrigation Company but no other property; and that the Oro corporations own certain lands, franchises, water rights and other properties in the counties of Butte, Yuba, Plumas, Tehama, Amador, Calaveras and San Joaquin.

The petition refers to an agreement of sale between two of the Oro corporations and Pacific Gas and Electric Company, to which agreement more detailed reference will hereinafter be made.

The petition sets forth in detail the reasons why the petitioners desire to enter into said agreement of sale, which reasons will hereinafter be set forth in greater detail.

The petition alleges that under the terms of said agreement of sale, Pacific Gas and Electric Company has purchased all the bonds of Oro Electric Corporation issued under its mortgage of October 1, 1911, which were in the hands of the public, except two bonds; that Pacific Gas and Electric Company has expended for this purpose the sum of \$1,489,001.35, and will be required to expend the additional sum of \$2,150.00 to purchase the remaining two outstanding bonds; and that Pacific Gas and Electric Company desires to reimburse its treasury for the expenditures thus made by the issue of its general and refunding mortgage gold bonds at a price not less than 85 per cent of their face value. At the hearing of December 29, 1916, herein, the petition was amended so as to ask authority to issue these bonds at not less than 90 per cent of their face value, with accrued interest.

The petition alleges that it is impossible to state the original cost of the properties of the Oro corporations and that none of the securities of the Oro corporations were issued for or used in capitalizing their right to be a corporation or in capitalizing any contract for consolidation, and that Pacific Gas and Electric Company does not intend to use

any of the bonds, authority to issue which is herein requested, for the purpose of capitalizing the right to be a corporation or any contract for consolidation or lease or for the capitalization of any franchise or permit in excess of the amount actually paid to the state or a political subdivision thereof, as the consideration for the grant of such franchise, permit or right.

The petition asks that the Railroad Commission make its order authorizing the Oro corporations to sell and convey to Pacific Gas and Electric Company the property described in the agreement of sale of January 15, 1916, under and in accordance with the terms thereof, and authorizing Pacific Gas and Electric Company to purchase and acquire said property, and further authorizing Pacific Gas and Electric Company to issue its general and refunding mortgage gold bonds in an amount sufficient to pay for said properties.

Public hearings in this proceeding were held in San Francisco on August 21, 1916, and on December 29, 1916. On the latter date this proceeding was submitted for decision.

Reference is hereby made to the following decisions of the Railroad Commission bearing on the business and operations of the Oro corporations, or some of them:

Decision No. 123, made on July 3, 1912, in Application No. 64 (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 253); Decision No. 265, made on October 8, 1912, in Application No. 64 (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 700); Decision No. 616, made on April 29, 1913, in Application No. 347 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 748); Decision No. 617, made on April 30, 1913, in Application No. 347 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 775); Decision No. 748, made on June 26, 1913, in Application No. 347 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 1072); Decision No. 882, made on August 15, 1913, in Application No. 347 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 429); Decision No. 989, made on October 3, 1913, in Application No. 779 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 682); Decision No. 1678, made on July 21, 1914, in Application No. 1238 (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 123); Decision No. 1963, made on November 25, 1914, in Application No. 1400 (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 763); Decision No. 2239, made on March 18, 1915, in Application No. 1571 (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 384); Decision No. 2604, made on July 16, 1915, in Application No.

1773 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 651); and Decision No. 2899, made on November 13, 1915, in Case No. 668 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 413).

The allegations of the petition hereinbefore referred to with reference to the nature and extent of the service of the various petitioners may be considered sufficient for the purpose of this opinion.

I shall now consider the subject matter of this opinion under the following heads:

1. Finances of Oro Corporations.
2. Reasons for sale and purchase.
3. Agreement of sale and purchase.
4. Original cost of Oro properties.
5. Reproduction estimates of Oro properties.
6. Water rights of Oro properties.
7. Franchises of Oro properties.
8. Certificates of public convenience and necessity of Oro Corporations.
9. Economies from consolidation.
10. Power contract—American Gold Dredging Company and Pacific Gas and Electric Company.
12. Public interest in consolidation.

1. Finances of Oro Corporations.

Oro Electric Corporation has an authorized issue of ten million dollars of capital stock, consisting of preferred stock of the par value of \$3,500,000.00, and common stock of the par value of \$6,500,000.00. Of the capital stock thus authorized, preferred stock of the par value of \$2,850,000.00 is in the hands of the public and preferred stock of the par value of \$650,000.00 is owned by Oroville Water, Light and Power Company. Of the authorized issue of \$6,500,000.00, par value, of common capital stock, \$5,200,000.00, par value, is reported as being in the hands of the public and \$1,300,000.00, par value, as being owned by Oroville Water, Light and Power Company.

Oro Electric Corporation has a total authorized issue of bonds of the face value of ten million dollars of 6 per cent first mortgage bonds, dated October 1, 1911, and maturing on October 1, 1951. Of the bonds thus authorized, \$1,830,000.00 are reported as having been in the hands of the public and \$180,000.00 in the treasury of Oro Electric Corporation.

Oro Water, Light and Power Company has an authorized issue of common capital stock of the par value of \$3,500,000.00, of which amount

the total issued stock, having a par value of \$3,250,000.00, is owned by Oro Electric Corporation, directly or through directors.

Oro Water, Light and Power Company has an authorized issue of first mortgage bonds of the face value of \$750,000.00 bearing interest at the rate of 6 per cent per annum, dated May 1, 1905, and maturing on May 1, 1925. Of the bonds thus authorized, bonds of the total face value of \$300,000.00 are now outstanding.

Oroville Light and Power Company, which owns the gas and electric properties in Oroville, has an authorized capital stock of the total par value of \$225,000.00, all owned by Oro Water, Light and Power Company. Oroville Water, Light and Power Company has an authorized bond issue of the face value of \$50,000.00, bearing interest at the rate of 6 per cent per annum, dated February 1, 1902, and maturing February 1, 1927. Of the bonds thus authorized, bonds of the face value of \$33,000.00 are in the hands of the public and the remaining bonds of the face value of \$17,000.00 are in the treasury of the Oroville Light and Power Company.

Oroville Water Company has an authorized issue of capital stock of the par value of \$200,000.00, all issued and owned by Oro Water, Light and Power Company. Oroville Water Company is no longer an operating company. Oroville Water Company has no bonded indebtedness.

As of May 31, 1916, the Oro corporations report an indebtedness represented by notes payable amounting to \$197,000.00, and an indebtedness represented by accounts payable amounting to \$226,149.29, making a total indebtedness in the form of promissory notes and accounts payable amounting to \$423,149.29.

No dividends have been paid by Oro Electric Corporation subsequent to 1913, or by Oro Water, Light and Power Company subsequent to 1912.

Table I shows the earnings and expenditures of the Oro corporations in connection with their public utility business for the year ending May 31, 1916, as reported in Exhibit "A," attached to the petition herein:

TABLE I.

*Earnings and Expenses of Oro Corporations from Public Utility Operations—
Year ending May 31, 1916.*

Gross earnings:		
Electricity -----	\$194,530 96	
Gas -----	20,050 39	
Water -----	38,158 95	
Total gross earnings -----		\$252,740 30
Operating expenses:		
Maintenance -----	\$19,665 64	
Operating -----	94,983 93	
General Administration Expenses -----	20,069 06	
Taxes -----	7,979 57	
Insurance -----	6,761 44	
Uncollectible Accounts -----	5,712 73	
Total operating expenses -----		155,152 37
Net revenue -----		\$97,587 93
Miscellaneous income (Net)—		
Miscellaneous nonoperating revenue -----	*\$547 62	
Total other income -----		*547 62
Total net revenue -----		\$97,040 31
Interest:		
Funded debt—Oro Water, Light and Power Company bonds -----	\$19,980 00	
Funded debt—Oro Electric Corporation -----	109,800 00	
Floating debt -----	9,525 84	
Total interest -----		139,305 84
Balance deficit -----		\$42,265 53
Amortization of debt discount and expense -----	\$5,285 12	
Depreciation reserve -----	30,750 00	36,035 12
Deficit for year ending May 31, 1916 -----		78,300 65

NOTE—Intercompany items omitted.

*Deficit.

Table II shows the earnings and expenses of the Oro corporations from their public utility business during the six months ending June 30, 1916, as reported in Exhibit No. 1 of petitioners:

TABLE II.

Earnings and Expenses of Oro Corporations from Public Utility Operations—Six months ending June 30, 1916.

Gross earnings:		
Electricity	\$89,554 71	
Gas	10,124 50	
Water	18,792 79	
Total gross earnings		\$118,472 00
Operating expenses:		
Maintenance	\$8,598 49	
Operating	36,493 59	
General and administrative expenses	15,025 12	
Taxes	6,738 12	
Insurance	986 31	
Total operating expenses		\$67,841 63
Net revenue		\$50,630 37
Miscellaneous income (Net)—		
Miscellaneous nonoperating revenue	*\$268 23	
Total other income		*268 23
Total net revenue		\$50,362 14
Interest:		
Funded debt—Oro Water, Light and Power Company	\$9,990 00	
Funded debt—Oro Electric Corporation	54,900 00	
Other interest deductions	5,962 34	
Total interest		\$70,852 34
Balance deficit		\$20,490 20
Amortization of debt discount and expense	\$2,642 56	
Depreciation	15,375 00	18,017 56
Deficit for six months ending June 30, 1916		\$38,507 76

NOTE—Expenditures for new services, etc., in above period, \$11,117.18.

*Deficit.

The amounts set aside under the head of "depreciation reserve" in Tables I and II are the amounts which were actually set aside by the Oro corporations.

As appears from Tables I and II, after making said allowances for depreciation reserve, the Oro corporations had a deficit of \$78,300.65 from their public utility operations for the year ending May 31, 1916, and a deficit of \$38,507.76 for the six months ending June 30, 1916.

2. Reasons for Sale and Purchase.

The petition herein sets forth the reasons on the part of petitioners animating the Oro corporations in their desire to sell their properties and Pacific Gas and Electric Company in its desire to purchase the same.

The allegations of the petition in this respect are, substantially, that the Oro corporations, at the time of the agreement of January 15, 1916, with Pacific Gas and Electric Company, had a floating indebtedness then due and payable amounting to \$312,000.00, or thereabouts; that the Oro corporations were in need of considerable additional money for the improvement and extension of their plants, lines and facilities; that the first mortgage bonds of Oro Electric Corporation were the most marketable securities of the Oro corporations but that their market price was so low that it was not considered advisable to attempt to dispose of the same to obtain funds for capital and other requirements; that the only funds available to the Oro corporations were such as were derived from their regular business operations, but that these funds were insufficient to enable said corporations to meet the demands of their creditors, pay the interest on their bonds and meet their sinking fund requirements; that the Oro corporations were unable to secure the necessary funds for needed additions and betterments to their properties, to extend or enlarge their facilities or to further develop the territory in which they were supplying service; that Oro Electric Corporation had invested large sums of money in lands, rights of way, reservoir and power sites in the Yellow Creek and Mill Creek projects, but that the cost of developing these projects would be about eight million dollars and that Oro Electric Corporation was unable to proceed with such development; that the investment of Oro Electric Corporation in the Yellow Creek and Mill Creek projects entailed upon it a heavy burden of fixed charges while producing no revenue to meet such charges; that Oro Electric Corporation is compelled to purchase the greater part of the electric energy which it distributes, including all the electric energy distributed in the Stockton district from Pacific Gas and Electric Company; that the system of Oro Electric Corporation is divided and can not be economically operated; that the territory supplied with service by the Oro corporations is contiguous to the territory supplied by Pacific Gas and Electric Company and that the properties of the Oro corporations can be operated by Pacific Gas and Electric Company with but few additions to its present organization; that Pacific Gas and Electric Company is financially able to improve the service in the territory served by the Oro corporations and to extend its facilities for "the development of the particular counties in the state of California in which the Oro Electric Corporation and subsidiary companies are furnishing service"; and that Pacific Gas and Electric

Company desires to acquire reserve water powers and believes that when it shall become advisable to develop additional hydroelectric energy, it will be in a position to command sufficient capital to complete the Yellow Creek and Mill Creek projects.

Mr. Leo Van der Naillen, vice president and general manager of Oro Electric Corporation, and of Oro Water, Light and Power Company, testified, in part, that active work on the public utility development of the Oro corporations ceased in 1913; that during the last four or five years the dredging operations of the Oro corporations have been called upon to carry their public utility operations; that it is now desired to separate the nonpublic utility business of the Oro corporations from their public utility business and to transfer the latter to Pacific Gas and Electric Company; that in or about December, 1914, when the witness first secured a comprehensive idea of the financial position of the Oro corporations, they had a floating debt of approximately \$330,000.00, with default in the sinking fund payments on the bonds of Oro Water, Light and Power Company; that the floating debt was due and pressing; that heavy demands were being made upon the Oro corporations for extensions and for maintenance; that the bonds of Oro Electric Corporation were selling in the market for between 48 and 50 per cent of their face value and that the Oro corporations found it impossible to properly finance their operations; that the earnings of the Oro corporations were such that they were unable to meet their bond interest of between forty and fifty thousand dollars annually; that the various electric plants of the Oro corporations were disconnected, being some 125 miles apart, and that the Oro corporations were accordingly compelled to purchase from Pacific Gas and Electric Company the power distributed in the Stockton district; that the Oro corporations were being constantly pressed on account of default in their sinking fund obligations; that it would require between eight and ten million dollars to complete the contemplated hydroelectric developments of the Oro corporations, and that there was no way to secure the necessary funds; that the electric operating expenses in the Stockton district were higher, by reason of the necessity of purchasing power, than they would have been if the Oro corporations had been able to secure the funds to complete the construction of an electric transmission line from Oroville; that the Oro corporations have been operating their public utility properties at an annual deficit, as shown in Tables I and II herein; and that the Oro corporations determined that it was the part of wisdom to sell their public utility properties to some concern which could operate them advantageously.

Mr. A. F. Hockenbeamer, treasurer and vice president of Pacific Gas and Electric Company, testified, in part, that Oro Electric Corporation had been a large customer of Pacific Gas and Electric Company for a

number of years and that Pacific Gas and Electric Company desires to retain this business as against some possible other purchaser of the public utility property of the Oro corporations; that in 1915, Pacific Gas and Electric Company derived a revenue of \$45,020.74 from the sale of electric energy to Oro Electric Corporation; that there had been disputes between the Oro corporations and Pacific Gas and Electric Company with reference to the water rights of the respective parties, which disputes would be automatically adjusted by the merger of the two properties; that substantial economies could be effected by the consolidation of the two properties; that with sufficient capital, the public utility business of the Oro corporations could be considerably developed; that Pacific Gas and Electric Company desired to secure additional water powers and that it would be advantageous to the company to secure for that purpose the Yellow Creek, Mill Creek and Deer Creek projects of the Oro corporations; that the financial situation of Pacific Gas and Electric Company is such that it would be possible for that company to secure, when needed, the necessary funds for the effective development of said projects; that it would be financially advantageous to substitute the 5 per cent bonds of Pacific Gas and Electric Company in a smaller amount for the outstanding 6 per cent bonds of the Oro corporations; and, in short, that Pacific Gas and Electric Company will be able to spend more money, do more developing and place the properties in better operating condition than they now are, besides being able ultimately to develop the power projects along Yellow Creek, Mill Creek and Deer Creek.

Reference will hereinafter be made to the extent of the economies which Pacific Gas and Electric Company expects to be able to effect if the consolidation is authorized.

3. Agreement of Sale and Purchase.

The agreement of January 15, 1916, between Oro Electric Corporation and Oro Water, Light and Power Company, parties of the first part, and Pacific Gas and Electric Company, party of the second part, is of considerable length, and I shall not attempt to refer to all its provisions. The principal provisions, however, will be herein set forth.

Oro Electric Corporation and Oro Water, Light and Power Company, which two companies will, in this section of the opinion, be together referred to as the Oro companies, agree as follows:

(1) That the Oro companies will cause Oroville Water Company to convey to Pacific Gas and Electric Company, Oroville Water Company's entire property, except bills and accounts receivable belonging to Oroville Water Company at the close of business on January 31, 1916;

(2) That the Oro companies will cause Oroville Light and Power Company to convey to Pacific Gas and Electric Company the entire

property of Oroville Light and Power Company, except bills and accounts receivable belonging to Oroville Light and Power Company at the close of business on January 31, 1916;

(3) That Oro Water, Light and Power Company will assign to Pacific Gas and Electric Company all the shares of capital stock of Butte and Tehama Power Company and of Cataract Gold Mining and Power Company owned by Oro Water, Light and Power Company;

(4) That the Oro companies will convey to Pacific Gas and Electric Company their entire public utility properties, together with all bills and accounts receivable, with certain exceptions, for water, gas or electric energy sold by the Oro companies;

(5) That the properties to be conveyed to Pacific Gas and Electric Company shall be free from all deeds of trust, mortgages and liens of every kind, except—

(a) The mortgage or deed of trust dated February 1, 1902, executed by Oroville Light and Power Company to secure the payment of bonds not exceeding the face value of \$50,000.00, of which amount bonds not exceeding the face value of \$33,000.00 are outstanding, with interest accrued thereon from August 1, 1915;

(b) The mortgage or deed of trust dated May 1, 1905, executed by Oro Water, Light and Power Company to secure the payment of bonds not exceeding the face value of \$750,000.00, of which amount bonds of the face value of \$300,000.00 are outstanding, with interest accrued thereon from November 1, 1915;

(c) The mortgage or deed of trust dated October 1, 1911, executed by Oro Electric Corporation to secure the payment of bonds not exceeding the face value of \$10,000,000.00, of which amount bonds not to exceed the face value of \$1,830,000.00 are outstanding in the hands of the public;

(d) The mortgage or deed of trust dated November 1, 1911, executed by Oro Water, Light and Power Company as additional security for the payment of the bonds to be issued by Oro Electric Corporation under the mortgage or deed of trust dated October 1, 1911;

(e) The mortgage dated July 7, 1913, executed by W. G. Jack to J. A. McFeely, as security for the payment of three promissory notes of the aggregate face value of \$6,500.00, of which notes two notes having the face value of \$4,000.00, together with accrued interest thereon from July 7, 1915, are still unpaid;

(f) The mortgage dated June 19, 1913, executed by W. G. Jack to Vincenzo Gianella as security for the payment of a promissory note of the face value of \$2,500.00, which note with interest accrued thereon from December 19, 1915, is still unpaid; and,

(g) The lien of national, state, county and municipal taxes for the current and ensuing years.

(6) That the Oro companies will, on or before December 1, 1916, issue and deliver to Pacific Gas and Electric Company bonds of the new issue hereinafter referred to equal in value at the price of 92½ per cent of their face value, plus accrued interest, to the value of the outstanding bonds of Oroville Light and Power Company, at par, with accrued interest, on condition that Pacific Gas and Electric Company will thereupon agree to pay said bonds of Oroville Light and Power Company;

(7) That the Oro companies will, on or before June 1, 1917, redeem and cancel all the outstanding bonds of Oro Water, Light and Power Company, or, if such bonds are not redeemed and canceled by June 1, 1917, Oro Electric Corporation will issue and deliver to Pacific Gas and Electric Company bonds of said new issue, hereinafter referred to, equal in value at the price of 92½ per cent of their face value, plus accrued interest, to the value of all of Oro Water, Light and Power Company's bonds then outstanding, at par and accrued interest, on condition that Pacific Gas and Electric Company will thereupon agree to pay such bonds of Oro Water, Light and Power Company as may then be outstanding;

(8) That before the delivery of conveyances to Pacific Gas and Electric Company, the Oro companies will cause all the bonds of Oro Electric Corporation, except bonds of the face value of \$1,830,000.00 outstanding in the hands of the public, to be canceled by the trustee, will close its deed of trust or mortgage and will cause Oro Water, Light and Power Company to relinquish and surrender any rights which it may have in any bonds of Oro Electric Corporation;

(9) That the Oro companies will, on or before March 1, 1916, sell or cause to be sold to Pacific Gas and Electric Company at the price of 75 per cent of their face value, plus accrued interest, bonds of Oro Electric Corporation of the face value of \$800,000.00, and shall diligently endeavor to sell or cause to be sold to Pacific Gas and Electric Company as many remaining bonds as possible at the same price.

(10) That the Oro companies will, on or before October 1, 1916, cause all their mining lands, dredges and other property except that which they agree to sell to Pacific Gas and Electric Company, to be vested either in one of the Oro companies or in a new corporation, referred to as the "Dredging company," and will then cause the "Dredging company" to take proceedings and perform acts which are specified in detail in the agreement, one of the agreements being that bonds of the face value of \$705,000.00 to be authorized by the "Dredging company" may be delivered at 91½ per cent of their face value to Pacific Gas and Electric Company and the proceeds used to retire the bonds of the face value of \$33,000.00 of Oroville Light and Power Company, to retire bonds of the face value of \$300,000.00 of Oro Water,

Light and Power Company, and to pay off the floating debt of the Oro companies amounting to \$312,000.00;

(11) That the "Dredging company" shall enter into a power agreement for the purchase from Pacific Gas and Electric Company of all the electric power which shall be required by the "Dredging company" or its successor or successors in interest in conducting the mining and other business upon any lands owned by the "Dredging company" at any time during the term of the contract, such contract to contain the terms specified in the agreement of January 15, 1916;

(12) That the affairs of the "Dredging company" shall be managed by a finance committee of its board of directors, consisting of the president and three other members of the board, of which members two shall be nominees of Pacific Gas and Electric Company; and,

(13) That subsequent to February 1, 1916, the properties to be conveyed to Pacific Gas and Electric Company shall be operated by the Oro companies "for the account and benefit of said Pacific Gas and Electric Company" on terms set forth in said agreement of January 15, 1916.

Pacific Gas and Electric Company agrees, in part, as follows:

(1) That Pacific Gas and Electric Company will pay for the bonds of Oro Electric Corporation 75 per cent of their face value, plus accrued interest;

(2) That Pacific Gas and Electric Company will buy, at par and accrued interest, such bonds of Oro Water, Light and Power Company as may be tendered to it on or before December 31, 1916, and will thereafter surrender the same for cancellation upon receiving from the Oro companies money equal to that paid for the bonds by Pacific Gas and Electric Company or upon receiving from the "Dredging company" its bonds equal in value, at 92½ per cent of their face value, plus accrued interest, to the value of the bonds of Oro Water, Light and Power Company to be surrendered and canceled, at par and accrued interest, and that Pacific Gas and Electric Company will refrain from demanding the payment of interest on the bonds of Oro Water, Light and Power Company to be acquired by it, until November 1, 1916, and will likewise refrain from demanding the payment of interest on such bonds of Oro Electric Corporation as it may purchase except on contingencies specified in the agreement of January 15, 1916;

(3) That Pacific Gas and Electric Company will buy the properties of the Oro companies in accordance with the terms of the agreement, will surrender for cancellation such bonds of Oro Electric Corporation as it may acquire and will, with certain exceptions, pay the actual cost of procuring the satisfaction and discharge of both the mortgages securing the payment of Oro Electric Corporation's outstanding bonds;

(4) That Pacific Gas and Electric Company will accept delivery of bonds of the "Dredging company" and pay for the same in accordance with the terms of the agreement of January 15, 1916, and that, if Pacific Gas and Electric Company shall at any time sell any of the bonds of the "Dredging company," at a price exceeding 92½ per cent of their face value, plus accrued interest, in such event it will pay to the "Dredging company" such excess, to be disposed of by the "Dredging company" in accordance with the terms of the agreement of January 15, 1916.

The parties further agree as follows:

(1) That the taxes shall be pro rated and paid as specified in the agreement of January 15, 1916;

(2) That the Oro companies shall pay to Pacific Gas and Electric Company the reasonable value of any property of the kinds specified which they may have sold during the time specified and that Pacific Gas and Electric Company will pay to the Oro companies the actual cost of all additions and betterments which any of the Oro companies may have made with the approval of the general manager of Pacific Gas and Electric Company subsequent to October 1, 1915;

(3) That the Oro companies will, at their own expense, as far as they reasonably can do so, cure all defects in title to the properties to be conveyed to Pacific Gas and Electric Company;

(4) That the Oro companies will file with the Railroad Commission the necessary application for authority to transfer their properties to Pacific Gas and Electric Company;

(5) That certain acts shall be performed if the Railroad Commission shall fail or refuse to make an order as prayed for;

(6) That certain extensions of time and other rights may arise in case the Oro companies fail to cause the transfer to Pacific Gas and Electric Company of the requisite number of bonds of Oro Electric Corporation at the price specified; and,

(7) That premiums upon policies of fire and casualty insurance shall be charged as operating expenses during the operation of the property for the benefit of Pacific Gas and Electric Company and that the latter company will, if necessary, loan to the Oro companies moneys in the amounts specified in the agreement of January 15, 1916, and secure a reasonable extension of time for the payment by the Oro companies of a certain promissory note for the principal sum of \$72,000.00.

The testimony shows that the outstanding bonds of Oro Electric Corporation amounting to \$1,830,000.00 have been purchased by Pacific Gas and Electric Company and that the necessary documents to be executed by the Oro companies in connection with the release of all claims arising out of the bonds of Oro Electric Corporation have been

satisfactorily executed, so that this entire issue of bonds will be surrendered and the deed of trust or mortgage securing the same will be canceled.

4. Original Cost of Oro Properties.

The books of Oro Electric Corporation and subsidiary corporations show that the cost of the public utility properties of the Oro corporations, both operative and nonoperative, as of December 31, 1915, was the sum of \$3,488,249.76, as shown by Table III:

TABLE III.

Cost to December 31, 1915, of the Public Utility Property, Operative and Non-operative, of Oro Corporations.

OPERATIVE PUBLIC UTILITY PROPERTY.	
Organization expenses of Oro Electric Corporation only-----	\$2,366 80
Franchises acquired by Oro Electric Corporation, operative only---	1,916 20
Oroville power system including generating plants, transmission lines and distribution lines in the territory surrounding the city of Oroville, but not the city itself--	
Cash cost, including actual cost to vendors of the property sold by them to Oro Electric Corporation-----	655,199 58
Stockton power system, including generating plants, transmission lines and distribution lines in the vicinity of the city of Stockton--	
Cash cost of original construction by Oro Electric Company-----	460,199 08
Oroville water system, including ditches and flumes, mains, and services for the purpose of distributing water to the city of Oroville and surrounding territory--	
Cash cost on books includes a sum of \$750,000.00, being a valuation set upon this plant at January 1, 1907. The original cash cost of the property used in this system is believed to be greater than the sum here stated, but its actual cost as acquired by the purchase of the stock of Oroville Water Company is undoubtedly less than this sum-----	\$17,596 65
Oroville gas and electric system, including gas generating plants, distribution mains, services, etc., and electric distributing lines and services supplying the city of Oroville with gas generated, and electricity supplied through the Oroville power system above--	
Cash cost on books includes a sum of \$100,000.00 being a valuation set upon this gas and electric system at January 1, 1907. The original cash, cost of the property used in this system is believed to be approximately this sum stated-----	199,927 60
Office equipment used in the San Francisco office-----	4,691 63
Total cost of operative public utility properties-----	\$2,141,897 60

NONOPERATIVE PUBLIC UTILITY PROPERTY.

Cost of acquiring, consolidating and improving lands to be devoted to future production operations—		
Humburg Valley-----	\$246,806 60	
Mill Creek-----	38,174 42	
Deer Creek-----	96,507 57	\$381,488 59
Cost of acquiring the capital stock of other companies and cash advances made to those companies, for the purpose of acquiring or controlling properties to be possibly used in future production operations—		
Cataract Gold Mining and Power Company, stock--	\$55,943 36	
Advances-----	70,250 32	
Butte and Tehama Power Company—		
Stock-----	32,699 32	
Advances-----	3,044 41	161,937 41
Cost of land to be devoted to future transmission and distribution operations-----		14,932 28
Cost of acquiring franchises in various cities and counties for the purpose of future transmission and distribution operations-----		6,822 93
Cost of construction in progress at one time on Feather River Power Plant, a transmission line therefrom to Crouch and thence down the Sacramento Valley—cash cost less recoveries-----		290,425 46
Undistributed construction expenditures including overhead expenses during the period of construction and development ending December, 1913, engineering and superintendence covering also fees to consulting engineers on entire development of power properties, law expenses, taxes, etc.-----		208,085 88
Interest during construction to period ending December 31, 1914, and calculated on cost of bonds sold for investment in nonoperative property-----		156,555 31
Total nonoperative tangible capital-----		\$1,220,247 86

INTANGIBLE NONOPERATIVE EXPENDITURES.

Cost of obtaining franchise in the City of Stockton (excluding franchise itself) and in the matter of Application No. 347 before Railroad Commission of California and appeals therein-----		
	\$88,760 29	
Development cost of doing business outside the city of Stockton, being deficit of net revenue under interest charges on bonds sold for construction period June, 1913-December, 1914-----		
	37,314 01	126,104 30
Total cost of nonoperative public utility properties-----		\$1,346,352 16
Total cost of operative and nonoperative public utility properties-----		3,488,249 76

5. Reproduction Estimates of Oro Properties.

Petitioners introduced as their Exhibit No. 3 an estimate of the cost to reproduce new the public utility properties of the Oro corporations and also an estimate of the reproduction cost new less accrued depreciation, as of February 1, 1914, prepared for Western States Gas and

Electric Company by Mr. O. E. Sandman. It was not considered necessary for the Engineering Department of the Railroad Commission to check this report for the purpose of this proceeding.

Table IV shows a summary of the appraisal prepared by Mr. Sandman.

In Exhibit No. 6, petitioners claim that the actual cost of additions and betterments to the properties of the Oro Corporations from February 1, 1914, to October 1, 1915, was the sum of \$53,636.77.

6. Water Rights of Oro Properties.

Among the property to be acquired by Pacific Gas and Electric Company, either directly or through stock ownership, are a number of water rights.

Table V contains data with reference to these water rights collected from the exhibits filed by petitioners herein.

Each of the water rights shown in Table V is claimed under an appropriation, with no initial expense other than the usual expense of posting and recording the notice.

In connection with the various water rights, however, large amounts of money have been expended by Oro corporations in the purchase of real estate, the salaries of engineers and other employees, preliminary constructions of power projects, surveys, and other items, as shown in Exhibit No. 12 of petitioners.

It is not intended to pass herein in any way on the question whether the water rights claimed by the Oro corporations and listed in Table V are still effective.

7. Franchises of Oro Corporations.

Petitioners filed as Exhibit No. 10, a statement of franchises claimed by any of the Oro corporations, together with data concerning the same, including the class of franchise, the date of granting, the term, the original cost and expense, the date on which work commenced thereunder, the approximate expenditures to June 1, 1915, in connection therewith and explanatory remarks. The franchise data submitted by petitioners in their Exhibit No. 10 are shown in Table VI.

TABLE VI.
Franchise Data—Oro Corporations.

Grantor	Class	Date granted	Term, years	Cost of franchise	Expense	Date work commenced	Approximate expenditures to October 1, 1915	Remarks
Butte County.....	Electric	Nov. 15, 1904	50	Unknown	Unknown	Presumably at once.	\$448,611 95	Originally granted to Park Henshaw, and later conveyed to Oro Water, Light and Power Company. In expenditures is included cost of power houses, substations and approximately 212 miles of transmission and primary and secondary lines, with necessary equipment and connections. Records of capital expenditures to April, 1906, are not in existence and it is impossible to segregate costs as between electric and gas systems to that date. Since April, 1906, expenditures for betterments have been: electric, \$9,777 51; gas, \$8,000 12. The gas system expenditures covered 12 miles of main line, 2 miles of branch line and 12 miles of distributing mains, with necessary connections and equipment. The electric physical property used in connection with this franchise is included in the data given in the preceding franchise, as only costs and operation have been separately maintained.
Butte County (Oroville, ville).	Electric	Jan. 10, 1902	50	Unknown	Unknown	Presumably at once.	199,927 66	
Butte County (Oroville, ville).	Gas	Feb. 5, 1902	50	Unknown	Unknown	Presumably at once.		
Butte County.....	Water	July 2, 1902	40	Unknown	Unknown	Presumably at once.	217,596 65	Originally granted to Palermo Land and Water Company, later conveyed to Oroville Water Company, by which it was subsequently conveyed to Oroville Light and Power Company. There are no existing records as to expenditures until January, 1906, at which time the value of the whole water system was set up on the books at \$750,000. This amount, however, included all ditches, flumes, water rights, etc., used at that time and subsequently in the generation of electricity. For accounting purposes, without relation to the physical facts, the value of this system was estimated at \$500,000. The value of this \$750,000 approximately \$800,000 was used in this connection, i. e., generating electricity, leaving \$150,000 as the cost of the transmission and distribution system of the water division alone. Since January, 1906, approximately \$27,596 65 has been expended on betterments. The total estimated value of property used directly in connection with this franchise is therefore \$527,596 65. Of this amount, \$217,596 65, which is all that a part of this amount was spent prior to the time it was granted.
Butte County.....	Water	Nov. 15, 1904	50	Unknown	Unknown	Presumably at once.	Included in above.	This franchise was granted to Park Henshaw and transferred by him to Oro Water, Light and Power Company by deed dated about March 10, 1905. This deed having been destroyed in April, 1906, a deed of confirmation was executed by Mr. Henshaw to Oro Water, Light and Power Company, May 11, 1907.

TABLE VI—Continued.
Franchise Data—Oro Corporations.

Grantor	Class	Date granted	Term, years	Cost of franchise	Expense	Date work commenced	Approximate expenditures to October 1, 1915	Remarks
Calaveras County...	Electric	Mar. 13, 1913	50	\$100 00	\$85 90			No construction under franchise, but approximately 14 miles of 60 K. V. transmission lines have been erected on private poles and connected with main line of Pacific Gas and Electric Company, from which it takes power to serve irrigators in Calaveras County.
Colusa County.....	Electric	Feb. 4, 1913	50	300 00	135 08			Not operative. Erected 4 mile line in October, 1913.
Glenn County.....	Electric	Jan. 8, 1913	50	200 00	76 83	December, 1912..	\$11,000 00	Covers cost of about 9.3 miles of transmission line. The line has been taken down and removed.
Plumas County.....	Electric	Jan. 9, 1913	50	200 00	12 00			Not operative.
Sacramento County..	Electric	July 9, 1913	50	200 00	808 85			Not operative. Erected a few poles in November, 1913.
San Joaquin County..	Electric	Jan. 7, 1913	50	300 00	12 00	December, 1912..	444,128 35	Includes cost of steam generating plant, and approximately 225 miles of transmission and distribution lines in the vicinity of Stockton, with the necessary equipment and connections.
City of Stockton (not including portion recently annexed).	Electric	Dec. 17, 1912	40	2,500 00	966 40	April, 1913.....	2,536 86	Originally started to protect franchise and later completed and used to connect our lines with Pacific Gas and Electric Company. Does not include lines in territory recently annexed. Expense of franchise is exclusive of costs in connection with application for certificate of public convenience.
Sutter County.....	Electric	Mar. 4, 1913	50	300 00	133 60	January, 1913....	5,683 30	Covers cost of 4½ miles of distribution lines with necessary equipment and connections.
Yolo County.....	Electric	May 6, 1913	50	250 00	250 80			Not operative. Erected ½ mile line in October, 1913.
Yuba County.....	Electric	Jan. 8, 1913	50	300 00	408 75	January, 1913....	3,114 76	Covers cost of about 1½ miles distribution lines with necessary transformers and connections.
City of Marysville..	Electric	May 20, 1913	50	220 00	980 60			Not operative.

Petitioners filed herein as Exhibit No. 16, a statement by Pacific Gas and Electric Company referring to the franchises claimed by the Oro corporations. In this statement, Pacific Gas and Electric Company alleges that the company has been advised by counsel that the franchises granted by the counties of Calaveras, Colusa, Glenn, Plumas, Sacramento, San Joaquin, Sutter, Yolo and Yuba, and the cities of Stockton and Marysville are probably subject to forfeiture under the provisions of the act of March 22, 1905 (Statutes of 1905, p. 477), either for failure to commence or complete construction of the electric transmission lines therein authorized. Pacific Gas and Electric Company accordingly does not desire to acquire any of these franchises or to claim any rights thereunder. Pacific Gas and Electric Company, however, does desire to acquire certain franchises which its counsel has advised are valid and in full force and effect, being certain electric, gas and water franchises granted by Butte County, and light and water franchises acquired by Oroville Light and Power Company and Oroville Water Company, upon the incorporation of the city of Oroville in 1906, under and pursuant of the provisions of section 19 of article XI of the constitution of this state.

8. Certificates of Public Convenience and Necessity of Oro Corporations.

In Decisions Nos. 123, 265, 616, 617, 882, 883, 989 and 1963, hereinbefore referred to, the Railroad Commission passed on applications of Oro Electric Corporation for certificates declaring that public convenience and necessity required the exercise by Oro Electric Corporation of rights under franchises granted by various public authorities, both county and city.

Petitioners have filed herein their Exhibit No. 18, in which exhibit Pacific Gas and Electric Company states that it does not desire to avail itself of any of the certificates of public convenience and necessity heretofore granted by the Railroad Commission to Oro Electric Corporation, "except in so far as they secure the right to serve the public with electricity in the territory in which said Oro Electric Corporation has already constructed electric transmission and distribution systems and except in so far as they confer the right to proceed with the construction of a reservoir, power plant and electric transmission lines in Plumas County." Petitioners will hereafter file herein a statement showing the exact territory in which Oro Electric Corporation has heretofore constructed electric transmission and distribution systems.

When such statement has been filed, the protest of Sierra and San Francisco Power Company, which company protested that Oro Electric Corporation had been granted rights, under one of these certificates, in territory claimed by it, will presumably be withdrawn, for the reason that Oro Electric Corporation has not actually constructed an electric distribution system in said territory.

Pacific Gas and Electric Company has indicated that it will hereafter cause an appropriate proceeding to be initiated, having for its object the revocation by the Railroad Commission of the rights granted to Oro Electric Corporation by all certificates of public convenience and necessity, except in so far as Oro Electric Corporation has constructed electric transmission and distribution systems thereunder, and except in so far as they confer the right to proceed with the construction of a reservoir, power plant, and electric transmission lines in Plumas County.

9. Economies From Consolidation.

Petitioners filed herein their Exhibit No. 4, being copy of letter dated August 7, 1916, from P. M. Downing, chief engineer of the hydraulic department of Pacific Gas and Electric Company, to John A. Britton, vice president and general manager of the same company, in which letter Mr. Downing states his conclusions as to the economies which will result in operating expenses, apart from the saving in office expenses, from the proposed consolidation. Mr. Downing recommends that the main ditch systems and power houses of the Oro corporations in the vicinity of Oroville, together with the Humbug Valley and Belden properties, be made a part of the De Sabla district of Pacific Gas and Electric Company, and that the electric distribution lines in Oroville and vicinity be handled by an agent in Oroville reporting to the district superintendent of Pacific Gas and Electric Company at Marysville, thus eliminating the necessity of a manager or superintendent at Oroville. He further recommends that the office organization in Oroville could be largely done away with by having the accounts handled through the Marysville office of Pacific Gas and Electric Company. He concludes that the supervision of the San Joaquin properties could be handled by the present organization of Pacific Gas and Electric Company, with the possible addition of one man. Mr. Downing concludes that through these means, the operating expenses in connection with the public utility property of the Oro corporations could be reduced to the extent of \$23,280.00 annually, if these properties were operated as part of the system of Pacific Gas and Electric Company.

In Exhibit No. 5, presented by Mr. Hockenbeamer, the petitioners estimate that an additional saving of \$20,970.00 could be made in head office expenses. The total saving in operating expenses resulting from the consolidation would thus be the sum of \$44,250.00 annually.

10. Financial Set-up After Consolidation.

Mr. Hockenbeamer presented as Exhibit No. 5, a statement, revised to December 29, 1916, showing the cost of the properties to be acquired by Pacific Gas and Electric Company and the revenues, expenses and

balance to profit and loss in connection therewith. This statement appears as Table VII.

TABLE VII.

Financial Set-up—Operation by Pacific Gas and Electric Company of Public Utility Properties of Oro Corporations.

Cost of properties.....		\$1,596,334 35
\$1,774,000.00 general and refunding bonds at 90.....	\$1,596,600 00	
Discount	177,400 00	
		\$1,774,000 00
Annual carrying charges:		
Five per cent interest on \$1,774,000.00.....	\$88,700 00	
Annual amortization	7,096 00	
		\$95,796 00
Annual addition to sinking fund of Pacific Gas and Electric Company by reason of issue of \$1,774,000.00 general and refunding bonds, 1 per cent of par value.....		\$17,740 00
Income account, twelve months to November 30, 1916, on basis of Pacific Gas and Electric Company ownership and operation:		
Gross earnings		\$251,390 70
Operating expenses, maintenance and taxes.....		146,721 09
Net operating revenue.....		\$104,669 61
Nonoperating revenue		3,272 08
Total		\$107,941 69
Deductions from income account of nonoperating expenses, maintenance, taxes, etc.....		8,639 86
Total net income.....		\$99,301 83
Estimated savings in the field as per P. M. Downing's estimate	\$23,280 00	
Estimated savings in head office and general administrative expense as shown in detail below.....	20,970 00	
		44,250 00
Total		\$143,551 83
Deduct estimated depreciation.....		30,000 00
Balance		\$113,551 83
Carrying charges as shown in financial set-up above, exclusive of sinking funds		95,796 00
Balance		\$17,755 83
Additional sinking fund.....		17,740 00
Details of head office expense to be eliminated:		
Salaries of general officers.....	\$6,300 00	
Salaries of general office clerks.....	5,353 00	
Miscellaneous general office supplies and expenses	2,757 00	
Law expenses	3,000 00	
Rent of equipment.....	560 00	
Miscellaneous	3,000 00	
Total	\$20,970 00	

The item of \$1,596,334.35 appearing as "Cost of Properties" is the sum which has been paid by Pacific Gas and Electric Company for the bonds of Oro Electric Corporation outstanding in the hands of the public, having the face value of \$1,830,000.00. It will be observed that the general and refunding mortgage bonds of Pacific Gas and Electric Company are to be issued at 90 per cent of their face value and that their amortization is provided for at the rate of \$7,096.00 per year.

It will be observed that after making said allowance of \$7,096.00 for annual amortization of the bonds to be issued by Pacific Gas and Electric Company and allowing the sum of \$17,740.00 as annual additional payment to the sinking fund of Pacific Gas and Electric Company, the estimated earnings based on the earnings for the twelve months to November 30, 1916, without any reference to increase in the business, will be sufficient to meet all charges and to show a balance of \$17,755.83.

The deficit resulting from the operation of these properties by the Oro corporations is thus to be converted, at the very outset, into a substantial profit resulting from the operation of the same properties as part of the system of Pacific Gas and Electric Company.

Table VII is interesting as showing the economies which can result from the consolidation of public utility properties.

Petitioners also presented as their Exhibit No. 20, a summary of all expenditures alleged to have been incurred by Pacific Gas and Electric Company prior to December 29, 1916, in connection with the purchase of the Oro properties. The aggregate claimed by Pacific Gas and Electric Company is the sum of \$1,596,334.35. This sum includes an item of \$86,699.32 for interest on moneys expended, at 7 per cent per annum. This interest is considerably in excess of the average interest paid by Pacific Gas and Electric Company. The statement makes no allowance for the profit arising from the operation of the public utility properties of Oro corporations for account of Pacific Gas and Electric Company. A statement showing such profits will be filed herein by petitioners.

Pacific Gas and Electric Company thus claims a total expenditure of \$1,596,334.35 for a property the cost to date of which is reported by the Railroad Commission's auditing department to have been \$3,488,249.76, the estimated reproduction cost new of which is reported in Exhibit No. 3 of petitioners to be \$3,189,208.47 as of February 1, 1914, and the estimated reproduction cost new less depreciation of which is reported in the same exhibit to be the sum of \$2,905,413.58.

While the original cost to date of a public utility property, the estimated reproduction cost new thereof and the estimated reproduction cost new less depreciation thereof may all fail to represent the present

fair value of the property for any purpose, it is nevertheless significant that during the first year of the operation of this property as a part of the system of Pacific Gas and Electric Company, it is estimated that the property will yield to Pacific Gas and Electric Company a net balance of \$17,755.83 after the payment of all operating expenses, the sum of \$30,000.00 for depreciation, the sum of \$7,096.00 for annual amortization of bonds and the sum of \$17,740.00 for annual sinking fund.

From these computations, it seems entirely clear that the consolidation of the Oro properties with the system of Pacific Gas and Electric company will be a very distinct advantage to Pacific Gas and Electric Company.

The representatives of Pacific Gas and Electric Company were not prepared, at the hearing, to state what entries the company proposes to make in its books of account in connection with the proposed consolidation. This is a matter of very great importance. The order herein will provide that the authority granted shall become effective only upon the approval by the Railroad Commission of entries to be proposed by Pacific Gas and Electric Company in connection with this transaction.

11. Power Contract—American Gold Dredging Company and Pacific Gas and Electric Company.

Petitioners submitted as Exhibit No. 19, a proposed contract between American Gold Dredging Company and Pacific Gas and Electric Company. The term of this agreement is to be ten years. The agreement provides, in part, that American Gold Dredging Company shall take from Pacific Gas and Electric Company all the electric energy which shall be required by the dredging company or its successor or successors in interest, in conducting mining or other business upon any land or premises owned by the dredging company at any time during the existence of the contract and situate in any territory or district in the State of California, within reasonable distance from any of the power company's electric transmission or distribution lines. The agreement provides the conditions of service and specifies that the electric energy delivered shall be paid for at the rate of one cent per kilowatt hour. This rate is higher than the rate at which similar service is rendered to dredging companies at a number of other points in California. Pacific Gas and Electric Company urges that this agreement is one of the considerations for the agreement of January 15, 1916, between the Oro companies and Pacific Gas and Electric Company and that the rate named was agreed upon so as to insure to Pacific Gas and Electric Company a definite amount of revenue from this business.

The Railroad Commission can not affirmatively approve any contract for service made by a public utility in such a way that there enters into the consideration of the fair rate an extraneous element such as a part of the consideration paid for a bargain in another matter. The hands of the state must be left untied so that the state, through its appropriate agencies, may at any time review any rate filed with it and thereafter establish a just and reasonable rate based solely upon the fair value of the property, reasonable maintenance and operating expenses, a fair allowance for depreciation, and the other elements which should receive consideration in the establishment of a just and reasonable rate.

The proposed agreement between American Gold Dredging Company and Pacific Gas and Electric Company may be filed by Pacific Gas and Electric Company, but it must be distinctly understood that the Railroad Commission is not giving its affirmative approval thereto.

12. Public Interest in Consolidation.

That a very substantial benefit and advantage will accrue to Pacific Gas and Electric Company if the consolidation herein applied for is authorized, is clear from the evidence herein. Such consolidation can not be consummated, under the laws of this state, unless the state, acting through the Railroad Commission, grants its consent thereto. This consent should not be granted unless the public interest will be advanced thereby. It is not sufficient that Pacific Gas and Electric Company is to derive a benefit from the bargain. The fundamental test, which overrides any benefit to any single party, is whether or not the public interest will be served by the consolidation.

In this connection, we must remember that the consolidation herein proposed will result in the elimination of any possible competition between Pacific Gas and Electric Company and the Oro corporations. If the public is to be deprived of the benefits of possible competition between these companies, it has the right to expect, in lieu thereof, substantial benefits resulting from the proposed consolidation. Otherwise, the petition should be denied.

Upon being asked what benefits will accrue to the public from the proposed consolidation, Mr. A. F. Hockenbeamer, testifying in behalf of Pacific Gas and Electric Company, stated that his company proposes to install at an expense of more than twenty-five thousand dollars, a new water system at Thermalito, in Butte County, to replace the existing dilapidated and unsatisfactory system; that his company proposes to rehabilitate the gas plant at Oroville; and that his company will give consideration to applications for service which have heretofore been made to the Oro corporations but not granted by them. Mr. Hockenbeamer testified that Pacific Gas and Electric Company does

not, at the present time, contemplate any changes in the rates charged by the Oro corporations for electric energy, gas or water.

There is a further matter of considerable importance to which, in my opinion, attention should be directed. Certificates of public convenience and necessity were heretofore granted by the Railroad Commission to Oro Electric Corporation covering large areas in the Sacramento Valley which, up to the present time, have little or no electric service. These certificates were granted on representations by Oro Electric Corporation that it intended to develop these sections of the state and would be able to do so if certificates were granted as prayed for. The Railroad Commission granted these certificates in the hope and expectation that these portions of the state would be developed by Oro Electric Corporation. The hopes of Oro Electric Corporation and of the Railroad Commission in this respect have not been realized.

Pacific Gas and Electric Company is now failing to take over any except a very few franchises owned by the Oro corporations, and is asking that certificates of public convenience and necessity heretofore granted by the Railroad Commission be revoked except to a certain small extent. Pacific Gas and Electric Company took the position at the hearing herein that it could not build extensions into any territory in which it did not have a franchise and, as to franchises granted subsequent to March 23, 1912, a certificate of public convenience and necessity. If this assumption is correct, it would follow that Pacific Gas and Electric Company would not have the legal right to construct extensions into any except a very limited portion of the large area which Oro Electric Corporation expected to develop.

In view of the fact that through the consent of the state, Pacific Gas and Electric Company is to secure a very substantial benefit from the purchase of the properties of the Oro corporations, I am of the opinion that Pacific Gas and Electric Company should be very liberal in making extensions into the undeveloped territory which the Railroad Commission hoped that Oro Electric Corporation would be able to develop, and that in passing on requests for extensions in this territory, Pacific Gas and Electric Company should look largely to the development of the future as well as to the immediate business of the present.

Unless electric companies which, during good behavior, may enjoy a practical monopoly in the thickly populated districts of this state, are willing to make extensions liberally into outlying undeveloped sections of the state, there is very serious question as to whether the policy of regulated monopoly of such public utilities as may be referred to as natural monopolies, which policy is now the settled policy of the state, will be a blessing to our people in the long run.

One further matter merits attention. Quite a number of minority stockholders of Cataract Gold Mining and Power Company have protested to the Railroad Commission against the proposed transfer to Pacific Gas and Electric Company of the properties of the Oro corporations, including the ownership of more than two-thirds of the issued capital stock of Cataract Gold Mining and Power Company. This company owns what is known as the Lott Ditch and Flume, which convey water from Yellow Creek at the outlet of Humbug Valley, in Plumas County, and also certain mining claims, together with the right to appropriate water from Yellow Creek, if such right is still in existence. Exhibit "E," attached to the petition herein, states that the Lott Ditch has a length of 39,240 feet, and the Lott Flume a length of 3,012 feet, and that the company owns the Willow and Muggins Bar placer mining claims and the Indian Bar placer mining claims. Oro Water, Light and Power Company has controlled this corporation through stock ownership and has expended large sums of money in the development of water by means of the Yellow Creek appropriation. The minority stockholders of Cataract Gold Mining and Power Company have complained that they have been unable to secure any satisfactory statement with reference to the property and that no annual meetings have been held for a number of years. Mr. Hockenbeamer testified at the hearing herein, speaking in behalf of Pacific Gas and Electric Company, that his company would see to it that the next annual meeting is held at the appropriate time, and that there will be presented at such meeting a report, in as much detail as possible, showing the exact situation of the property. The granting of this application will merely substitute Pacific Gas and Electric Company as the owner of the controlling interest of the capital stock of Cataract Gold Mining and Power Company for Oro Water, Light and Power Company.

I recommend that the application be granted, subject to the conditions contained in the order and submit the following form of order:

ORDER.

Oro Electric Corporation, Oro Water, Light and Power Company, Oroville Light and Power Company, Oroville Water Company and Pacific Gas and Electric Company having filed their petition as specified in the opinion which precedes this order, and a public hearing having been held thereon, this proceeding having been submitted and the Railroad Commission being fully advised in the premises,

It is hereby ordered that Oro Electric Corporation and Oro Water, Light and Power Company be and the same are hereby authorized to sell and convey to Pacific Gas and Electric Company the property which is described in Exhibit No. 13 of petitioners herein and in Exhibit "A," which is attached to and made a part of this order, that Oroville Light

and Power Company be and the same is hereby authorized to sell and convey to Pacific Gas and Electric Company the property which is described in Exhibit No. 14 of petitioners herein and in Exhibit "B," which is attached to and made a part of this order, and that Oroville Water Company be and the same is hereby authorized to sell and convey to Pacific Gas and Electric Company the property which is described in Exhibit No. 15 of petitioners herein and in Exhibit "C," which is attached to and made a part of this order, all on the following conditions and not otherwise, to wit:

1. Before the authority herein granted shall be effective, Pacific Gas and Electric Company shall first have secured from the Railroad Commission a supplemental order or orders declaring that stipulations, in form satisfactory to the Railroad Commission, duly authorized by the board of directors of Pacific Gas and Electric Company, have been filed herein, declaring as follows:

(a) That Pacific Gas and Electric Company, its successors and assigns, will never claim in any proceeding of any character before the Railroad Commission or any other public authority, any value for the franchises and permits which Pacific Gas and Electric Company may acquire from any of the other petitioners herein in excess of the amount which was paid by the original grantee of such franchises or permits to the public authority granting the same, which amount shall be specified in said stipulation.

(b) That Pacific Gas and Electric Company, its successors and assigns, will promptly proceed to renovate and repair in an efficient manner the water distributing system at Thermalito.

(c) That Pacific Gas and Electric Company, its successors and assigns, will pursue a liberal policy of extension of electric development in the territory in which the Railroad Commission heretofore granted to Oro Electric Corporation certificates of public convenience and necessity.

2. The authority herein granted shall not become effective until Pacific Gas and Electric Company shall have received from the Railroad Commission a supplemental order herein, stating that Pacific Gas and Electric Company has submitted to the Railroad Commission satisfactory proposed book entries in connection with the proposed acquisition of the properties described in Exhibits "A," "B" and "C," attached to and made a part of this order.

3. Pacific Gas and Electric Company shall file herein an accurate written description of the territory in which Oro Electric Corporation has constructed electric transmission and distribution systems, and in which Pacific Gas and Electric Company desires to exercise rights under certificates of public convenience and necessity heretofore granted by the Railroad Commission to Oro Electric Corporation.

4. Within thirty days after execution of deeds of conveyance from Oro Electric Corporation, Oro Water, Light and Power Company, Oroville Light and Power Company and Oroville Water Company, Pacific Gas and Electric Company shall file herein certified copies thereof.

It is further ordered that Pacific Gas and Electric Company be and the same is hereby authorized to issue at not less than ninety (90) per cent of their face value and accrued interest its general and refunding mortgage bonds, dated December 1, 1911, and maturing on January 1, 1942, bearing interest at the rate of 5 per cent per annum, in such amount as may be necessary, to realize the sum of \$1,491,151.35 to reimburse the treasury of Pacific Gas and Electric Company in the sum of \$1,491,151.35 expended by said company in the purchase of bonds of Oro Electric Corporation, on the following conditions and not otherwise, to wit:

1. Pacific Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month, the company shall make verified reports to the Railroad Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue bonds is conditioned upon the payment by Pacific Gas and Electric Company of the fee prescribed in section 57 of the Public Utilities Act.

3. The authority herein granted for the issue of bonds shall apply only to such bonds as shall have been issued on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 8th day of January, 1917.

EXHIBIT "A."

All and singular the lands, franchises, water rights, reservoirs, canals, ditches, pipe lines and other aqueducts used for impounding, storing, conveying, distributing and utilizing water, hydroelectric and steam power plants, electric transmission and distribution systems, gas manufacturing plants and distribution systems, and other properties of every kind and description which are now owned by Oro Electric Corporation and Oro Water, Light and Power Company, herein referred to as the grantors or either of them, whether their title thereto be both legal and equitable or only equitable, except only the shares of stock, bonds, moneys, bills and accounts receivable and rights, privileges and franchises which are retained by the grantors

according to their respective existing interests therein and which are particularly described in the following paragraphs numbered consecutively from 1 to 19, both numbers included, viz:

1. All of the issued and outstanding shares of the capital stock of Oroville Water Company, a corporation organized under the laws of the State of California and having its office and principal place of business in the City of Oroville, County of Butte, State aforesaid;

2. All of the issued and outstanding shares of the capital stock of Oroville Light and Power Company, a corporation organized under the laws of the State of California and having its office and principal place of business in said City and County of San Francisco;

3. All of the issued and outstanding shares of the capital stock and bonds of the American Gold Dredging Company, a corporation organized under the laws of the State of California, and having its office and principal place of business in said City and County of San Francisco;

4. All of the issued and outstanding shares of the capital stock of Santa Maria Petroleum and Pipe Line Company, a corporation organized under the laws of the State of California, and having its office and principal place of business in said City and County of San Francisco;

5. All of the shares of the capital stock of said Oro Electric Corporation now owned by said Oro Water, Light and Power Company and all of the shares of the capital stock of said Oro Water, Light and Power Company now owned by said Oro Electric Corporation;

6. All moneys of the Grantors, whether deposited in banks or held in their respective treasuries;

7. All bills and accounts receivable held by the Grantors, or either of them, other than bills and accounts receivable for water, gas and electricity sold and delivered by the Grantors, or either of them, after January 31, 1916, and other than bills and accounts receivable due from, or payable by, Butte and Tehama Power Company and Sierra Irrigation Company, both California corporations, and Cataract Gold Mining and Power Company, a South Dakota corporation;

8. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 139 adopted by the Board of Supervisors of Calaveras County, State of California, on or about March 3, 1913;

9. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 73 adopted by the Board of Supervisors of Colusa County, State of California, on or about February 4, 1913;

10. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 76 adopted by the Board of Supervisors of Glenn County, State of California, on or about January 8, 1913;

11. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 175 adopted by the Board of Supervisors of Plumas County, State of California, on or about January 9, 1913;

12. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 142 adopted by the Board of Supervisors of Sacramento County, State of California, on or about July 9, 1913;

13. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 339 adopted by the Board of Supervisors of San Joaquin County, State of California, on or about January 7, 1913;

14. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 566 adopted by the legislative body of the City of Stockton, State of California, on or about December 17, 1912;

15. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. —, adopted by the Board of Supervisors of Sutter County, State of California, March 4, 1913;

16. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 79 adopted by the Board of Supervisors of Yolo County, State of California, May 6, 1913;

17. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 49 adopted by the Board of Supervisors of Yuba County, State of California, January 8, 1913;

18. The rights, privileges and franchises which were granted to Oro Electric Corporation by Ordinance No. 151 adopted by the legislative body of the City of Marysville, State of California, May 19th, and approved May 20, 1913;

19. Such rights and privileges, if any, as said Oro Electric Corporation now possesses under and by virtue of Railroad Commission Decisions Nos. 123, 265, 616, 617, 882, 883, 989 and 1963, except the right to serve the public with electricity in the territory in which electric transmission and distribution systems have heretofore been constructed by said Oro Electric Corporation and except the right to proceed with the construction of a reservoir, power plant and electric transmission lines in said Plumas County.

The property granted, assigned and transferred by the grantors includes the real and personal property which is described as follows, viz:

I. SAN JOAQUIN COUNTY.

All that certain lot, parcel and tract of land which is situate in the County of San Joaquin, State of California, and which is more particularly described as follows, viz:

Part of County Survey No. 2929 and particularly described as follows: Commencing for the same at a point on the south line of Weber Avenue as marked and laid down in San Joaquin County Survey No. 2929, distant thereon 22 feet easterly from the westerly limits of the City of Stockton, and running thence south $3^{\circ} 55'$ east 126 feet, thence south $35^{\circ} 55'$ east 64 feet to a point 9 feet west of the westerly limits of the City of Stockton, thence south $15^{\circ} 10'$ west 200 feet, more or less, to the northerly bank of Mormon Channel, thence meandering the northerly bank of said Mormon Channel up stream following the meandering of said northerly bank of said Mormon Channel to the southwest corner of that certain tract of land heretofore conveyed by E. L. Wilhoit and Algae K. Wilhoit, his wife, to Stockton Box Company, a corporation, by deed dated December 19, 1912, and recorded January 3, 1913, in Book "A" of Deeds, Vol. 222, page 463, San Joaquin County Records; thence run north $15^{\circ} 10'$ west 200 feet, thence north $35^{\circ} 55'$ west 64 feet, thence north $3^{\circ} 55'$ west 380 feet to a point on the south line of said Weber Avenue, as marked and laid down in said County Survey No. 2929, thence south $88^{\circ} 14'$ west along said south line of said Weber Avenue 200 feet, to the point of beginning.

Together with all claims to the waters of Mormon Channel whereon the hereinbefore described land borders or fronts on said Mormon Channel, and to all lands lying along the shores and banks of said channel between deep water and the above described boundaries.

II. TEHAMA COUNTY.

All those lots, parcels and tracts of land which are situate in the County of Tehama, State of California, and which are more particularly described as follows, viz:

(a) In Township 25 North, Range 1 East:

In Section 10, the southeast quarter of the southwest quarter, the northeast quarter of the southeast quarter, and the south half of the southeast quarter.

In Section 12, the south half, being Lots 9, 10, 11, 12, 13, 14, 15 and 16.

All of Section 16.

In Section 18, the northeast quarter of the southwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, the southeast quarter of the northeast quarter, and Lots 3 and 4.

In Section 20, the northeast quarter of the northeast quarter.

(b) In Township 25 North, Range 2 East:

In Section 7, the west half of the southeast quarter.

In Section 18, the northwest quarter of the northeast quarter, and the southeast quarter of the northwest quarter.

(c) In Township 26 North, Range 1 West :

In Section 23, the south half of the southeast quarter.

In Section 24, the north half of the southeast quarter, the southwest quarter of the southeast quarter, and the south half of the southwest quarter.

In Section 26, the north half of the northeast quarter, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter.

In Section 27, the southeast quarter, the south half of the southwest quarter, and the southeast quarter of the northeast quarter.

In Section 33, the northeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the northwest quarter.

In Section 34, the north half of the northwest quarter, the southwest quarter of the northwest quarter, and the northwest quarter of the northeast quarter.

(d) In Township 26 North, Range 1 East :

In Section 3, Lots 1, 2, 3 and 4, the south half of the northeast quarter, and the south half of the northwest quarter.

In Section 9, the southeast quarter of the northeast quarter, and the southeast quarter of the southwest quarter.

In Section 10, the west half of the northwest quarter.

In Section 16, the south half of the northwest quarter.

In Section 17, the southeast quarter of the northeast quarter, the southeast quarter, and the south half of the southwest quarter.

In Section 19, the northeast quarter of the northeast quarter, and the south half of the north half.

In Section 20, the southwest quarter of the northwest quarter, and the north half of the northwest quarter.

(e) In Township 26 North, Range 2 East :

In Section 36, the northwest quarter.

(f) In Township 28 North, Range 5 East :

In Section 1, Lot 4 (being the northwest quarter of the northwest quarter), and the south half of the northwest quarter.

In Section 2, Lot 1 (being the northeast quarter of the northeast quarter).

In Section 16, the east half, the east half of the southwest quarter, and the southeast quarter of the northeast quarter.

In Section 21, the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter, the northeast quarter of the southwest quarter, and the north half of the southeast quarter.

In Section 22, the southwest quarter of the northwest quarter, the southwest quarter, and the southwest quarter of the southeast quarter.

In Section 26, the southwest quarter of the northwest quarter.

In Section 27, the northeast quarter of the northeast quarter.

III. PLUMAS COUNTY.

All those lots, parcels and tracts of land which are situate in the County of Plumas, State of California, and which are more particularly described as follows, viz :

(a) In Township 26 North, Range 6 East :

In Section 1, Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 (being the northeast quarter, and the north half of the northwest quarter) ; the southeast quarter, and the southeast quarter of the southwest quarter.

In Section 2, Lots 1 and 7 (Lot 7 being the northeast quarter of the northeast quarter).

In Section 8, the east half of the east half.

In Section 12, the northeast quarter.

(b) In Township 26 North, Range 7 East :

In Section 5, the west half of Lot 5.

In Section 6, Lots 1, 3, 4, 5, 6, east half of Lot 7, Lots 9, 10, 11 and 12, and east half of southwest quarter.

In Section 7, Lots 1, 2, 3 and 4 (being the west half of the west half) and the east half of the southwest quarter.

In Section 18, Lot 1 and the east half of the northwest quarter.

(c) In Township 27 North, Range 6 East :

In Section 14, the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter.

In Section 19, the east half of the southeast quarter.

In Section 20, the south half of the north half of the southwest quarter of the northeast quarter, the south half of the southwest quarter of the northeast quarter, the northwest quarter of the northwest quarter of the southeast quarter, the north half of the southwest quarter of the southwest quarter, the east half of the northeast quarter, and the north half of the southwest quarter.

In Section 21, the northeast quarter, the south half of the northeast quarter of the northeast quarter of the northwest quarter, the south half of the northeast quarter of the northwest quarter, the southeast quarter of the northwest quarter of the northwest quarter, the south half of the northwest quarter, the northwest quarter of the southwest quarter, and the northwest quarter of the southeast quarter.

In Section 35, the southeast quarter of the northwest quarter, the southwest quarter of the northeast quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter.

In Section 36, the northwest quarter and the south half.

(d) In Township 27 North, Range 7 East :

In Section 31, all of the south half of the southwest quarter except that certain one acre of land excepted from the operation of the deed executed by Lydia A. Miller to James W. Goodwin on the 9th day of August, 1906, and recorded in Volume 35 of Deeds at page 35, Plumas County Records; and the southwest quarter of the southeast quarter.

(e) Beatty Placer Mining Claim designated by the Surveyor General as Survey No. 4370, embracing a portion of the unsurveyed Public Domain in Township 25 North, of Ranges 6 and 7 East of the Mount Diablo Meridian, in Plumas County, California, and bounded, described and platted as follows: Beginning at corner No. 1, and oak post four inches square, four feet long, marked 14370, in mound of rock, from which U. S. Location Monument No. 101 bears north fifty-one degrees, fifty-one minutes west one hundred forty-four and seven-tenths feet distant; thence, first course, south eighty degrees, thirty-eight minutes west one thousand two hundred thirty-four and two-tenths feet to corner No. 2, a rock in place 5 x 2 x 1 feet, marked with x at exact corner point and 24370; thence, second course, north thirteen degrees, thirty-four minutes east one thousand four hundred eighty feet to corner No. 3, a pine post four inches square, three feet long, marked 34370, in mound of rock; thence, third course, north seventy-seven degrees, twelve minutes east one thousand one hundred thirteen feet to corner No. 4, a willow post five inches square, four feet long, marked 44370, in mound or rock; thence, fourth course, south eight degrees, fourteen minutes west one thousand five hundred feet to corner No. 1, the place of beginning; the premises herein granted, containing thirty-seven and nineteen-hundredths acres, more or less.

(f) That certain piece or parcel of land situate, lying and being in the County of Plumas, State of California, being part of the Jumbo Placer Claim near the Station of Belden, which land is described as follows, to wit: A strip two hundred (200) feet wide lying equally on each side of a center line described as follows: Commencing at a point on the northeast boundary of the Jumbo

Placer Claim, which point bears south $52^{\circ} 20'$ east two hundred two and sixty-two hundredths (202.62) feet from corner No. 2 of said claim; running thence south $13^{\circ} 33'$ east seven hundred twenty and four hundredths feet (720.04); thence south $3^{\circ} 3'$ west one thousand one hundred twenty-seven and nineteen hundredths (1127.19) feet; thence south 20° west six hundred thirty-five and twenty-seven hundredths feet (635.27) feet to a point on the southwest boundary of said claim, which bears north $52^{\circ} 20'$ east four hundred fifty-three (453) feet from Corner No. 4 of said claim, and north $53^{\circ} 30'$ east four thousand eight hundred seventy and sixty-six hundredths feet (4870.66) from United States Land Mound No. 101; said strip containing eleven and forty hundredths (11.40) acres.

IV. YOLO COUNTY.

All those lots, parcels and tracts of land which are situate in the County of Yolo, State of California, and which are more particularly described as follows, viz:

- (a) That part of the southwest quarter of Section 30, Township 9 North, Range 2 East, M. D. B. & M., described as follows: Beginning at the point of intersection of the north line of the southwest quarter of Section 30, Township 9 North, Range 2 East, M. D. B. & M., with the easterly line of the county road lying west of said Section 30; thence running easterly along said northerly line of said southwest quarter section three hundred forty-eight and forty-eight hundredths (348.48) feet to a point; thence southerly and parallel to said county road five hundred (500) feet to a point; thence westerly and parallel to the north line of said southwest quarter section three hundred forty-eight and forty-eight hundredths (348.48) feet to a point on the easterly line of aforesaid county road; thence northerly along said easterly line of said county road five hundred (500) feet to the point of beginning; containing an area of four (4) acres, more or less.

V. BUTTE COUNTY.

All those lots, parcels and tracts of land which are in the County of Butte, State of California, and which are more particularly described as follows, to wit:

- (a) Leasehold interest for ninety-nine years from March 13, 1913, in and to the following land: Beginning at a point where the legal subdivision line running east and west through the center of Section 14, Township 18 North, Range 2 East, M. D. B. & M., intersects the west boundary of the Town of Biggs, and running thence west along said legal subdivision line, thence three hundred fifty-five (355) feet; thence north parallel with the west line of the Town of Biggs, one hundred twenty-three (123) feet; thence east, three hundred fifty-five (355) feet; thence south one hundred twenty-three (123) feet, to the place of beginning, containing one (1) acre, more or less.
- (b) A part of Lot number 3 of Section 2, Township 17 North, Range 3 East, M. D. B. & M., said part of said Lot 3 being more particularly described as follows, to wit: Beginning at a point where the westerly line of the County Road leading from Marysville to Oroville intersects the south line of the County Road leading west to Gridley, said point being thirty-three (33) feet south of the north line of Section 2 and sixteen hundred and thirty-nine (1639) feet easterly from the northwest corner of said Section 2 in Township 17 North, Range 3 East, M. D. B. & M., and running thence south $16^{\circ} 00'$ east along the westerly line of the said county road leading from Marysville to Oroville, three hundred and one (301) feet to a stake; thence west parallel with the south line of the above mentioned road leading to Gridley, three hundred and one (301) feet to a stake; thence north $16^{\circ} 00'$ west, parallel with the westerly line of the said county road leading from Marysville to Oroville, three hundred and one (301) feet to a stake in the south line of the aforementioned county road leading to Gridley; thence east along the south line of said road, three hundred and one (301) feet to the

place of beginning, all in the northwest quarter of Section 2 in Township 17 North, Range 3 East, Mount Diablo Base and Meridian, and containing two (2) acres of land.

- (c) That part of the northeast quarter of Section 11, Township 20 North, Range 3 East, Mount Diablo Base and Meridian, described as follows, to wit: Commencing at a white stake at the southeast corner of the tract herein described, from which a fence post marked B. M. bears south $80^{\circ} 35'$ east distant fifty-six (56) feet, and the quarter section corner between Sections 11 and 12, Township 20 North, Range 3 East, M. D. B. & M., bears south $64^{\circ} 06'$ east distant five hundred sixty-seven (567) feet; thence north $1^{\circ} 25'$ east parallel to a certain fence, and fifty-six (56) feet distant therefrom, six hundred sixty (660) feet to a white stake, thence at right angles westerly north $88^{\circ} 35'$ west 660 feet to a white stake; thence at right angles southerly south $1^{\circ} 25'$ west 660 feet to a white stake (ten feet easterly of a certain fence); thence at right angles easterly south $88^{\circ} 35'$ east 660 feet to the point of commencement and containing ten (10) acres, as surveyed by B. L. McCoy, State Licensed Land Surveyor, October 17, 1907.
- (d) The southeast quarter of the southeast quarter of the southwest quarter ($SE \frac{1}{4}$ of $SE \frac{1}{4}$ or $SW \frac{1}{4}$) of Section 6, Township 21 North, Range 4 East, Mount Diablo Base and Meridian.
- (e) The northeast quarter of the northeast quarter of the northwest quarter ($NE \frac{1}{4}$ of $NE \frac{1}{4}$ of $NW \frac{1}{4}$) of Section 7, Township 21 North, Range 4 East, Mount Diablo Base and Meridian.
- (f) That part of Section 31, Township 22 North, Range 4 East, M. D. B. & M., described as follows: Beginning at the southwest corner of Section 31, Township 22 North, Range 4 East, M. D. B. & M.; thence running easterly along the southerly boundary line of said Section 31, twenty-four hundred forty (2440) feet to a point; thence north 20° west, one thousand (1000) feet to a point; thence north 40° west seven hundred and thirty (730) feet to a point; thence west sixteen hundred and ten (1610) feet to a point on the western boundary line of said Section 31; thence southerly along said western boundary line of said Section 31 fifteen hundred (1500) feet to the point of beginning.
- (g) That part of Section 6, Township 21 North, Range 4 East, M. D. B. & M., described as follows: Beginning at the northwest corner of the northeast quarter of the northwest quarter of Section 6, Township 21 North, Range 4 East, M. D. B. & M.; thence running along the western boundary line of the northeast quarter of the northwest quarter of said Section 6, same township and range, three hundred (300) feet to a point; thence easterly parallel with the southern boundary line of said Section 6 eleven hundred twenty (1120) feet to a point; thence northerly three hundred (300) feet parallel with the westerly boundary line of the northeast quarter of the northwest quarter of said section; thence to a point on the northern boundary line of said Section 6; thence westerly along said boundary line eleven hundred twenty (1120) feet to the point of beginning.
- (h) That certain lot, piece or parcel of land situate, lying and being in the County of Butte, State of California, described as follows, to wit: Being Lot No. 4018, as designated by the Surveyor General, and being known as the Goodwin Placer Mining Claim and being particularly described in patent from the United States to James W. Goodwin, dated June 30th, 1904, and recorded in Liber "G" of Patents, page 30, Records of Butte County. (Note—The above mentioned Lot No. 4018 contains 117.76 acres and is situate in what would be Sections 12 and 13, Township 25 North, Range 4 East, M. D. B. & M., were said sections surveyed.)
- (i) Lots 13 and 14 of Block 7 in Hammons Addition situate in the Town of Oroville.

- (j) That part of Sections 5 and 8 in Township 19 North, Range 4 East, M. D. M., and particularly described as follows, to wit:
- Beginning at an iron tube filled with plaster of paris, upon the west bank of the Powers Ditch; thence south $26^{\circ} 44'$ west three and $95/100$ chains to Station No. 2; thence south 45° west one and $22/100$ chains to Station No. 3 from which Station No. 3, the corner to Lots 8 and 9 of the Fernandez Grant on the north line of said grant, bears south $18^{\circ} 20'$ west distant six and $84/100$ chains; thence north $29^{\circ} 40'$ west five and $33/100$ chains to Station No. 4; thence north $56^{\circ} 40'$ east three and $78/100$ chains to Station No. 5; thence south $42^{\circ} 15'$ east three and $17/100$ chains to Station No. 1 and place of beginning and containing one and $84/100$ acres as surveyed by James McGann in November, 1881.
- (k) That part of Section 5 in Township 19 North, Range 4 East, M. D. M., described as follows: Commencing at the northeast corner of the northwest quarter of the northeast quarter of the northwest quarter of Section 5, Township 19 North, Range 4 East, M. D. M.; thence south along the line between the east and west halves of the northeast quarter of northwest quarter of Section 5, eleven hundred forty-nine (1149) feet; thence west one hundred (100) feet; thence north eleven hundred forty-nine (1149) feet to a point on the north boundary line of said Section 5; and thence east along said north boundary line one hundred (100) feet to the place of commencement, and being situate in the west half of the northeast quarter of the northwest quarter of Section 5, Township 19 North, Range 4 East, M. D. M., and containing two and $64/100$ acres of land.
- (l) That part of Section 5 in Township 19 North, Range 4 East, M. D. M., described as follows: Commencing at a point in the northerly and westerly boundary of the Oroville and Cherokee County Road (marked by an iron pin driven in the ground) from which the corner to Sections 5, 6, 7 and 8 of Township 19 North, Range 4 East, M. D. M., bears south $33^{\circ} 17'$ west (var. 17° east) $3005 \frac{6}{10}$ feet distant; thence north $40^{\circ} 32'$ east 311 feet distant to an iron pin set in the ground; thence north $36^{\circ} 57'$ east $583 \frac{5}{10}$ feet distant to an iron pin set in the ground, and on a fence line of the southerly boundary of Thompsons Flat; thence south $74^{\circ} 13'$ west $428 \frac{5}{10}$ feet to an iron pin set in the ground; thence north $28^{\circ} 27'$ west $256 \frac{6}{10}$ feet distant to an iron pin set in the ground; thence south $73^{\circ} 33'$ west 350 feet distant to an iron pin set in the ground; thence south $24^{\circ} 03'$ east 780 feet distant and to the point of commencement, and containing 7.019 acres.
- (m) That part of Section 5 in Township 19 North, Range 4 East, M. D. B. & M., described as follows: Commencing at a point on the line between the east and west halves of the northeast quarter of the northwest quarter of Section 5, Township 19 North, Range 4 East, M. D. B. & M., 1099 feet south of the north boundary line of the aforesaid Section 5; thence north $80^{\circ} 45'$ east 200 feet along the northerly boundary of the lands formerly owned by Mrs. Lucy Bottjer to the westerly line of a private road connecting southerly with the Oroville and Oregon City County Road; thence southerly along the westerly line of said private road 30 feet distant; thence south $80^{\circ} 45'$ west 200 feet to the line between the east and west halves of the aforesaid northeast quarter of the northwest quarter of the aforesaid Section 5; thence north along the line between the east and west halves of the northeast quarter of the northwest quarter of the aforesaid Section 5, 30 feet to the place of commencement, and containing $138/1000$ of an acre, and being a part of the east half of the northeast quarter of the northwest quarter ($NE \frac{1}{4}$ of $NE \frac{1}{4}$ of $NW \frac{1}{4}$) of Section 5, Township 19 North, Range 4 East, M. D. B. & M.
- (n) That part of Section 32, in Township 20 North, of Range 4 East, M. D. B. & M., which was formerly used as a reservoir.

- (o) That part of Sections 5 and 8, Township 19 North, Range 4 East, described as follows: Commencing at a point on the bluff on the northerly side of the Feather River where the stump of a large digger pine tree stands, about twenty (20) feet east of the cut leading from the bridge crossing the said Feather River on the so-called "Oroville and Chico Road"; thence northwesterly along the east side of the said "Oroville and Chico Road" to the junction of the so-called "Oroville and Cherokee Road," near the well; thence north five hundred fifty-five (555) feet, more or less, along the easterly side of the said "Oroville and Cherokee Road"; thence northeasterly along the southerly side of the said "Oroville and Cherokee Road" to a point beyond the northeast corner of the reservoir on the bank of the "Old Miocene Claim"; thence southerly and southeasterly along the said "Old Miocene Claim," and a line of wire fence to the so-called "Golden Feather Road"; thence southerly along the said Golden Feather Road and line of fence to where the said last mentioned road crosses a ravine leading from "Old Kennedy Cut"; thence southwesterly along a line of fence to and across the so-called "Old Ferry Road"; and thence along the said "Old Ferry Road," to the point of commencement, being commonly known as the "Rancho Golden Grove," and containing one hundred sixty-seven and sixty hundredths (167.60) acres, more or less.
- (p) The southeast quarter of the northwest quarter of the southeast quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$) and the northeast quarter of the southwest quarter of the southeast quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section 7, Township 21 North, Range 4 East, M. D. B. & M.
- (q) That part of Section 31, Township 21 North, Range 4 East, M. D. B. & M., described as follows: Beginning at a stake (1) on the west bank of the Miocene Ditch where the east and west line dividing the northeast quarter of the southwest quarter of Section 31, Township 21 North, Range 4 East, M. D. B. & M., from the southeast quarter of the northwest quarter of said Section 31 intersects the Miocene Ditch; thence south 52° west 375 feet to a stake (2); thence due west 173 feet to a stake (3); thence north 2° west to a stake (4) on the dividing line between the northeast quarter of the southwest quarter of Section 31, Township 21 North, Range 4 East, M. D. B. & M., and the southeast quarter of the northwest quarter of said Section 31; thence east to the point of beginning, containing one and one-half ($1\frac{1}{2}$) acres, more or less.
- (r) A piece or parcel of land thirty (30) feet in width, lying and being fifteen (15) feet in width on each side of the center line of the water conduit of the Oro Water, Light and Power Company, as said conduit is constructed over and across Lot Four of the southwest quarter of Section 18, Township 22 North, Range 4 East, M. D. B. & M.
- (s) Lots numbered One (1) and Two (2) of the northwest quarter, the southeast quarter of the northwest quarter and the southwest quarter of the northeast quarter of Section 18, Township 25 North, Range 5 East, M. D. B. & M.

VI. TEHAMA COUNTY—WATER RIGHTS.

All of the water rights which consist of the right to take, divert and appropriate water from streams in the County of Tehama, and which are more particularly described as follows, to wit:

- (a) The right to take and divert the water of Deer Creek to the extent of 15,000 inches at a point on the east bank of said stream 1300 feet north and 700 feet east from the southwest corner of Section 5 in Township 25 North, Range 2 East, in Tehama County, California, and to convey the same by a line of ditch, flume and pressure pipe to a power house in the southwest quarter of the southeast quarter of Section 14, in Township 25 North of Range 1 West, for use in generating electric power; said water right having been acquired by John D. Galloway by appropriation thereof under

the laws of the State of California by notice of appropriation posted on the 7th day of February, 1911, and recorded on the 11th day of February, 1911, in the County Recorder's office of said County of Tehama.

- (b) The right to take and divert the water of Deer Creek, in Tehama County, California, to the extent of 15,000 inches, at a point on the east bank of said stream distant 100 feet south and 600 feet east from the center of Section 7 in Township 25 North, Range 2 East, and to convey the same by a line of ditch, flume and pressure pipe to the said power house in Section 14, Township 25 North, Range 1 West, for use in generating electric power, said water right having been acquired by John D. Galloway by appropriation thereof under the laws of the State of California, by notice of appropriation thereof posted on the 7th day of February, 1911, and recorded on the 11th day of February, 1911, in said County Recorder's Office of Tehama County.
- (c) The right to take and divert the water of Deer Creek, in Tehama County, California, to the extent of 15,000 inches at a point on the south bank of said stream 250 feet south and 400 feet east from the northwest corner of Section 36, in Township 26 North, Range 2 East, and to convey the same by a line of ditch, flume and pressure pipe to said power house in Section 14, Township 25 North, Range 1 West, for use in generating electric power; said water right having been acquired by John D. Galloway, by appropriation thereof under the laws of the State of California, by notice of appropriation thereof posted on the 24th day of February, 1911, and recorded on the 2nd day of March, 1911, in said County Recorder's Office of Tehama County.
- (d) The right to take and divert the water of Deer Creek, in Tehama County, California, to the extent of 15,000 inches, at a point on the south bank of said stream distant 200 feet south and 600 feet west of the northeast corner of Section 34, in Township 26 North, Range 2 East, and to convey the same by a line of ditch, flume and pressure pipe to said power house in Section 14, Township 25 North, Range 1 West, for use in generating electric power; said water right having been acquired by John D. Galloway by appropriation thereof under the laws of California, by notice of appropriation thereof posted February 24th, 1911, and recorded March 2nd, 1911, in said County Recorder's Office of the County of Tehama.
- (e) The right to take and divert the water of Mill Creek, in Tehama County, California, to the extent of 15,000 inches, at a point on the west bank of said stream distant approximately 700 feet north and 200 feet west from the center of Section 3, in Township 26 North of Range 1 East, and to convey the same by a line of ditch, flume and pressure pipe to a power house in the northwest quarter of Section 4, in Township 25 North, Range 1 West, for use in generating electric power, said water right having been acquired by John D. Galloway by appropriation under the laws of California, by notice of appropriation thereof, posted February 10th, 1911, and recorded on February 11th, 1911, in said County Recorder's Office of the County of Tehama.

VII. PLUMAS COUNTY—WATER RIGHTS.

All of the water rights which consist of the right to take, divert and appropriate water from streams in the County of Plumas, and which are more particularly described as follows, to wit:

- (a) That certain water ditch leading the waters of Butte Creek to Humbug Valley, 7 miles in length, and known as "Ward and Long," or "Leslie & Co.'s" ditch, together with all water rights thereto appertaining; being also known as the "Wallack Ditch" and situate in Township 27 North, Ranges 6 and 7 East, in Plumas County, California.

- (b) The right to take and divert the water of Soda Creek, in Plumas County, California, to the extent of 10,000 inches, at a point on the north bank of said stream distant 2,975 feet south $33^{\circ} 30'$ west from the southwest corner of Section 23, in Township 26 North, Range 6 East, and to convey the same by a line of ditch, flume and tunnel to a point on Grizzly Creek in the southeast quarter of said Section 23, and thence to a power house on the north bank of the north fork of Feather River, near the mouth of Yellow Creek, for use in generating electric power; said water right having been acquired by Harold R. Ebright, by appropriation under the laws of California, by notice of appropriation thereof posted February 7th, 1911, and recorded February 9th, 1911, in the County Recorder's Office of Plumas County.
- (c) The right to take and divert the water of Grizzly Creek, in Plumas County, California, to the extent of 10,000 inches, at a point on said stream distant 2,600 feet west and 750 feet north of the southeast corner of Section 23, in Township 26 North of Range 6 East, and to convey the same by a line of ditch and flume to a proposed storage reservoir in the Valley of Yellow Creek, and thence to said power house on the north fork of Feather River, for use in generating electric power; which water right was acquired by Harold R. Ebright, by appropriation under the laws of California, by notice of appropriation thereof posted February 7th, 1911, and recorded February 9th, 1911, in said County Recorder's Office of Plumas County.
- (d) The right to take and divert the water of Yellow Creek, in Plumas County, California, to the extent of 20,000 inches at the existing headgate and dam of Cataract Ditch in the northeast quarter of Section 18, in Township 26 North of Range 7 East, and to conduct the same by a line of ditch, flume and pressure pipe to said power house on the north fork of Feather River, for use in generating electric power; said water right having been acquired by Harold R. Ebright by appropriation under the laws of California, by notice of appropriation thereof posted on the 8th day of February, 1911, and recorded on the 9th day of February, 1911, in said County Recorder's Office of Plumas County.
- (e) The right to take and divert the water of Butte Creek, in Plumas County, California, to the extent of 10,000 inches, at a point on said stream in the southwest quarter of the northwest quarter of Section 21, in Township 27 North of Range 6 East, and to conduct the same by a line of ditch and flume to a point on the natural channel of Yellow Creek in the southwest quarter of Section 22, in said township, and thence along Yellow Creek to a storage reservoir in Yellow Creek Valley, thence down the channel of Yellow Creek about one-half mile, and then to be taken by a line of flume, ditch and pressure pipe to said power-house on the north fork of Feather River for use in generating electric power; said water right having been acquired by Harold R. Ebright by appropriation under the laws of California by notice of appropriation thereof, posted February 6th, 1911, and recorded February 9th, 1911, in the County Recorder's office of said County of Plumas.
- (f) The right to take and divert the water of Butte Creek, in Plumas County, California, to the extent of 10,000 inches, at a point on said stream where it is crossed by the line running north and south through the center of Section 21, in Township 27 North, Range 6 East; and to conduct the same by a line of ditch and flume to a point on the natural channel of Yellow Creek in the southwest quarter of Section 22, in said Township, and thence along Yellow Creek to a storage reservoir in Yellow Creek Valley, thence down the channel of Yellow Creek about one-half mile, and thence to be taken by a line of flume, ditch and pressure pipe to said power house on the North Fork of Feather River, for use in generating electric power; said water right having been acquired by Harold R. Ebright by appropriation under the laws of California, by notice of appropriation thereof posted February 6th, 1911, and recorded February 9th, 1911, in said County Recorder's Office of Plumas County.

VIII. BUTTE COUNTY--WATER RIGHTS.

All of the water rights which consist of the right to take, divert and appropriate water from the West Branch of Feather River and Little Butte Creek, in the County of Butte, and which are more particularly described as follows, to wit:

- (a) The right to take and divert water from the West Branch of Feather River at the Miocene head dam which is located near the Town of Magalia in Sections 30 and 31, Township 23 North, Range 4 East, M. D. B. & M., to the extent of the full capacity of the aqueduct commonly known as and called Miocene Ditch which has its head at said dam, and to convey such water through said Miocene Ditch to Kunkle Reservoir and thence to the grantors' Lime Saddle Power House and thence to Coal Canyon Power House located in Section 11, Township 20 North, Range 3 East, M. D. B. & M., and thence by means of the Powers Ditch to the Cherokee Reservoir, and to use, distribute, sell and dispose of such water by means of the grantors' water distributing system.
- (b) The right to take and divert water from Little Butte Creek at the Nickerson head dam which is located near the Town of Magalia in Section 36, Township 23 North, Range 3 East, M. D. B. & M., to the extent of the full capacity of the aqueduct which is known as and called the Nickerson Ditch and has its head at said Nickerson head dam, and to convey said water through the last mentioned aqueduct to Kunkle Reservoir in Section 31, Township 22 North, Range 4 East, M. D. B. & M., and thence to said Lime Saddle and Coal Canyon Power Houses and thereafter, by means of the grantors' water distributing system, to use, distribute, sell and dispose of such water.

IX.

- (a) The grantors' reservoirs in said Butte County, viz: Kunkle Reservoir on the aforesaid Miocene Ditch and two distributing reservoirs on the Power's Ditch in the vicinity of said City of Oroville.
- (b) The grantors' aqueducts in said Butte County, viz: The Miocene Ditch, Nickerson Ditch, Farnum or Flea Valley Ditch, formerly known as Sugar Pine Lumber, Flume and Mining Company's Ditch, Hendricks Ditch, Snow Ditch, West Ditch, formerly known as Walker and Wilson Ditch, Harvey and Fitch Ditch, Austin Ditch, formerly known as H. C. Sarle and Company's Ditch, Thompson Ditch, and Morris Farrel Ditch, and also all of the Grantors' ditches, mains and pipes by means whereof they distribute and sell water to the public in said City of Oroville, and its vicinity, the Town of Thermalito and its vicinity and elsewhere in said Butte County.
- (c) The Grantors' ditches, flumes and other aqueducts in said Plumas County used or intended to be used for diverting, appropriating and conveying water for Yellow, Grizzly, Soda and Butte Creeks.
- (d) All and singular the Grantors' water rights exercised and enjoyed or intended to be exercised and enjoyed by means of all and singular the aqueducts hereinbefore mentioned.
- (e) All of the Grantors' roads, trails, bridges, camp buildings and equipment heretofore constructed and acquired and used or intended to be used in connection with the possession and enjoyment of the water rights, reservoirs, and aqueducts hereinbefore mentioned.
- (f) The Grantors' hydroelectric power plants at Coal Canyon and Lime Saddle in said Butte County, and also the Grantors' hydroelectric power plant and works now in course of construction near Belden in said Plumas County.
- (g) The Grantors' steam power plant in said City of Stockton.
- (h) The Grantors' substations, electric transmission lines and distributing systems in said Butte County by means of which electric power generated at the Grantors' above mentioned hydroelectric power plants or purchased from others is distributed and sold throughout a large part of said Butte County, including particularly said City of Oroville, and also the short extensions of said transmission lines and distributing systems which have been constructed in Sutter and Yuba Counties.

- (i) The Grantors' electric transmission and distributing lines in said Calaveras County by means whereof electricity is taken from the Pacific Gas and Electric Company's Standard Lines near Stone Corral and transmitted to the Jenny Lind and other mines and to the Grantors' mining dredges near Comanche.
- (j) The Grantors' electric transmission and distribution lines erected and now in use in the City of Stockton and its vicinity in said San Joaquin County, together with all transformers and other equipment and appliances used in connection therewith.
- (k) The Grantors' plant for the manufacture of gas and its mains, pipes and other apparatus used in conveying, distributing and selling gas in said City of Oroville and its vicinity.
- (l) All of the Grantors' materials and supplies which they have acquired and now hold for use upon, or in connection with, any or all of the properties, plants and systems hereinbefore mentioned.
- (m) All of the Grantors' existing contracts for the sale and delivery of water, gas and electricity to be furnished from one or more of the plants and properties hereinbefore mentioned.
- (n) All of the Grantors' bills and accounts receivable for water, gas and electricity sold and delivered after the 31st day of January, 1916, and all of their bills and accounts receivable due from or payable by the aforesaid Butte and Tehama Power Company, or Sierra Irrigation Company and Cataract Gold Mining and Power Company.
- (o) All of the Grantors' contracts and options for the purchase of lands intended for use in connection with their aforesaid water, gas and electric plants.
- (p) All and singular the tenements, hereditaments, easements and other appurtenances belonging or in any manner appertaining to all and singular the lands herein granted and conveyed and all rights of way and other land servitudes now owned or used by the Grantors, or either of them, for the construction, maintenance, operation and use of all and singular the electric transmission and distribution lines, gas mains, pipes, and conduits, reservoirs, ditches, canals and other kinds of aqueducts herein granted or intended to be granted; and all and singular the Grantors' rights to sell and deliver to the public electricity, gas and water by means of the works hereinbefore granted.
- (q) The franchises which the Grantors or their predecessors in estate acquired under and by virtue of the provisions of Section 19 of Article XI of the Constitution of California to use all of the public streets and highways in said City of Oroville for the purpose of supplying said city and its inhabitants with water and light.
- (r) All and singular the rights, privileges and franchises which were granted by the Board of Supervisors of said Butte County to the Oroville Water Company by resolution adopted on or about the 6th day of October, 1894.
- (s) All and singular the rights, privileges and franchises which were granted by the Board of Supervisors of said Butte County to the Palermo Land and Water Company by resolution adopted on or about September 2, 1902, and conveyed and transferred by said Palermo Land and Water Company to said Oroville Water Company on or about the 1st day of June, 1905.
- (t) All and singular the rights, privileges and franchises which were granted by the Board of Supervisors of Butte County to Park Henshaw by resolution adopted on or about the 15th day of November, 1904, and recorded in the Book of Franchises in said Butte County in volume A at Page 28.
- (u) All and singular the rights, privileges and franchises which were granted by the Board of Supervisors of Butte County to Park Henshaw by resolution adopted on or about the 15th day of November, 1904, and recorded in the Book of Franchises in said Butte County in volume A at Page 27.
- (v) The rights, privileges and franchises which were granted by the Board of Supervisors of said Butte County to the Oroville Light and Power Company on or about the 10th day of January, 1902.

- (c) The rights, privileges and franchises which were granted by the Board of Supervisors of said Butte County to the Oroville Light and Power Company on or about the 5th day of February, 1902.

Subject to the lien of national, state, county, municipal and district taxes for the current fiscal year, and also subject to the lien of each of the mortgages or deeds of trust which are described as follows, viz:

1. Mortgage or deed of trust dated February 1, 1902, and recorded in the office of the County Recorder of Butte County, in liber 62 of Deeds at page 63, which was executed by said Oroville Light and Power Company to California Safe Deposit and Trust Company, as trustee, to secure the payment of bonds to be issued thereunder to an amount not exceeding fifty thousand dollars (\$50,000.00), of which the Grantors represent that bonds of the par value of seventeen thousand dollars, (\$17,000.00) have been paid;

2. Mortgage or deed of trust dated May 1, 1905, and recorded in the office of the County Recorder of said County of Butte, in liber 83 of Deeds, at page 185 which was executed by the Oro Water, Light and Power Company to Union Trust Company of San Francisco, as trustee, to secure the payment of bonds to be issued thereunder to an amount not exceeding seven hundred and fifty thousand dollars (\$750,000.00);

3. Mortgage or deed of trust dated October 1, 1911, and recorded in the office of the County Recorder of said County of Butte in liber 73 of Mortgages at Page 185, which was executed by said Oro Electric Corporation to First Federal Trust Company, as trustee, to secure the payment of bonds to be issued thereunder to an amount not exceeding ten million dollars (\$10,000,000), as supplemented and modified by an indenture dated February 20, 1912, which was executed by said Oro Electric Corporation to said First Federal Trust Company and recorded in liber 73 of Mortgages at Page 219;

4. Mortgage or deed of trust dated November 1, 1911, and recorded in the office of the County Recorder of said County of Butte, in liber 66 of Mortgages at Page 164, which was executed by the Oro Water, Light and Power Company to said First Federal Trust Company, as trustee, as additional security for the payment of bonds to be issued under the aforesaid mortgage or deed of trust of said Oro Electric Corporation dated October 1, 1911.

EXHIBIT "B."

All the lands, franchises, rights of way and other property of every kind and character and the business conducted by means thereof, of Oroville Light and Power Company, referred to as the grantor herein, including its plant for the manufacture and storage of gas and its system of mains, pipes, valves and other apparatus used for the distribution of gas to the City of Oroville, in the County of Butte, State of California, and to its inhabitants and to other persons in the vicinity of said City of Oroville, and also its electric transmission and distribution lines, plant and system in said City of Oroville and vicinity, and its franchises, whether granted by section 19 of Article XI of the constitution of the State of California as the same existed prior to its amendment in October, 1911, or by the action of the Board of Supervisors of said County of Butte, for laying, maintaining and using mains, pipes and conduits for distributing gas and constructing, maintaining and using poles, wires and other apparatus and appliances for transmitting and distributing electricity in the public streets and highways in said City of Oroville and its vicinity, and also including the lots or parcels of land situate in said City of Oroville, County of Butte, and which are more particularly described as follows, viz:

1. All of lot three (3) in block thirty-eight (38), except a strip of the uniform width of thirty-three (33) feet extending along the entire easterly side of said lot; and all of Outside Lot No. 129;

2. That part of lot four (4) of block thirty-eight (38) which is described as follows:

Beginning at a point in the easterly line of Huntoon Street distant thereon one hundred (100) feet northerly from the northeasterly corner of Montgomery and Huntoon streets, and running thence at right angles easterly and parallel with Montgomery Street, along the exterior of the southerly wall of the brick building used as Gas Works one hundred (100) feet and three (3) inches to the southeasterly corner of said brick building; thence at right angles northerly along the exterior of the easterly wall of said brick building about thirty-two (32) feet to the northerly line of said lot four (4); thence westerly along the northerly line of said lot four (4) about one hundred and two (102) feet to the easterly side of Huntoon Street; and thence southerly along the easterly line of Huntoon Street about thirty-eight (38) feet and six (6) inches to the point of commencement.

3. All and singular the tenements, hereditaments and appurtenances belonging or in any wise appertaining to the lands hereinbefore described, or used and enjoyed in connection therewith, together with the rents, issues and profits of such lands, tenements, and hereditaments.

Subject, however, to the lien of national, state, county and municipal taxes for the current fiscal year and also subject to the lien of the mortgage or deed of trust, dated February 1, 1902, which was executed by the Grantor herein to the California Safe Deposit and Trust Company, as trustee, to secure the payment of bonds to be issued thereunder to an amount not exceeding fifty thousand dollars (\$50,000.00).

Except all bills and accounts receivable which belonged to the grantor at the close of business January 31, 1916, and all money which it has received on account of such bills and accounts receivable since the last mentioned date.

EXHIBIT C.

All the lands, water rights, franchises, rights of way and other property of every kind and character of Oroville Water Company, referred to as the grantor herein, including all of its rights, titles and interests in and to the reservoirs and aqueducts used for supplying water of said City of Oroville, and the franchises, whether granted by section 19 of article XI of the constitution of the State of California as the same existed prior to its amendment in October, 1911, or by the action of the Board of Supervisors of said County of Butte, for laying and maintaining mains, pipes and conduits in the public streets and highways in said City of Oroville and its vicinity for conveying and distributing water, and also including the lots or parcels of land situate in said County of Butte which are particularly described as follows, viz:

1. All of Outside Lots numbered thirty-five (35), thirty-six (36) and fifty-four (54) in said City of Oroville, and that part of Outside Lot numbered thirty-seven (37) in said City of Oroville which is described as follows, viz:

Beginning at the northwest corner of said lot number thirty-seven (37) and running thence south along the western boundary line of said lot to the south-west corner of said lot; thence easterly along the southern boundary line of said lot, thirty-three (33) feet and nine (9) inches to the place where the old original stake stood and to where the fence marking the western boundary of said lot number thirty-seven (37) stood previous to its being removed to the present line; thence to place of beginning.

2. Lots three (3), four (4) and nine (9) in Clement's Addition to the City of Oroville;

3. All and singular the tenements, hereditaments and appurtenances belonging or in any wise appertaining to the lands hereinbefore described, or used and enjoyed in connection therewith, together with the rents, issues and profits of such lands, tenements and hereditaments.

Subject, however, to the lien of national, state, county and municipal taxes for the current fiscal year.

Except all bills and accounts receivable which belonged to grantor at the close of business January 31, 1916, and all money which it may have received on account of such bills and accounts receivable since the last mentioned date.

DECISION No. 3988.
CITY OF LONG BEACH
vs.
LONG BEACH CONSOLIDATED GAS COMPANY.

Case No. 885.

Decided January 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant having, on January 5, 1917, made written request that the complaint in this proceeding be dismissed,

It is hereby ordered that the complaint in the above-entitled case be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3989.
CITY OF LONG BEACH
vs.
LONG BEACH CONSOLIDATED GAS COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY.

Case No. 905.

Decided January 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant having, on January 5, 1917, made written request that the complaint in this proceeding be dismissed,

It is hereby ordered that the complaint in the above-entitled action be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3990.
THE MODESTO AND EMPIRE TRACTION COMPANY
vs.
SOUTHERN PACIFIC COMPANY.

Case No. 953.

Decided January 9, 1917.

Complainant petitions the Railroad Commission to compel the construction of a physical connection between the tracks of complainant and the tracks of defendant company in the town of Modesto, and it appearing that public convenience does not require the connection, complaint dismissed.

L. L. Dennett, for Complainant.

Frank B. Austin and *George D. Squires*, for Defendant.

BY THE COMMISSION.

OPINION.

This case is brought under section 38 of the Public Utilities Act by the Modesto and Empire Traction Company, a corporation, operating a railroad of some five or six miles in length between Empire and Modesto in Stanislaus County, for the purpose of obtaining an order requiring and providing for the installation and maintenance of a physical connection in the city of Modesto between the railroad tracks of the complainant and those of the Southern Pacific Company.

A public hearing was held in Modesto on August 17, 1916. From the evidence it appears that the railroad lines of the Southern Pacific Company and of the Atchison, Topeka and Santa Fe Railway Company almost parallel each other in their course through the San Joaquin Valley from Stockton to Fresno. The latter company's line does not run through Modesto, but it has a physical connection at Empire, some five or six miles from Modesto, with the tracks of the complainant.

It further appears that the complainant's tracks extend to defendant's right of way in Modesto, and that there would be no physical obstacles against installing such a connection as is asked for by complainant.

Defendant, however, has expressly denied that public convenience or necessity, or any convenience or necessity, demands a physical connection between the two companies' tracks. This was the main issue at the hearing, and considerable testimony was introduced on each side of this question.

After a careful consideration of all the evidence and of the briefs filed by counsel, we find that the evidence fails to show sufficient public convenience and necessity for the proposed physical connection to justify this commission in ordering its installation.

ORDER.

A public hearing having been held in the above-entitled case and the same having thereafter been duly submitted upon briefs of the respective parties, and being now ready for decision, and it appearing to this commission for the reasons set forth in the foregoing opinion that the complaint should be dismissed,

It is hereby ordered that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3991.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY TO ABANDON DURING THE WINTER MONTHS, AGENCY AT BROOKDALE STATION.

Application No. 759.

Decided January 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

This matter having been disposed of informally and it being unnecessary that the formal consent of the commission be obtained in this proceeding,

It is hereby ordered that this application be and the same hereby is dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3992.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY TO MOVE DEPOT BUILDING FROM MIDDLE CREEK TO HILT, ON THE SHASTA DIVISION.

Application No. 818.

Decided January 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

This matter having been disposed of informally and it being unnecessary that the formal consent of the commission be obtained in this proceeding,

It is hereby ordered that this application be and the same hereby is dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3993.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY TO ABANDON STATION STOP AT HINTON, CALIFORNIA.

Application No. 766.

Decided January 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

This matter having been disposed of informally and it being unnecessary that the formal consent of the commission be obtained in this proceeding,

It is hereby ordered that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3994.

IN THE MATTER OF THE APPLICATION OF L. C. SMITH TO PURCHASE AND WILLIAM MORRIS TO SELL A TELEPHONE LINE AT MILLVILLE, SHASTA COUNTY.

Application No. 937.

Decided January 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

The commission being advised that the parties to this proceeding do not desire to proceed therewith and have requested that the same be dismissed,

It is hereby ordered that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3995.
IN THE MATTER OF THE APPLICATION OF THE CAMPBELL WATER
COMPANY FOR PERMISSION TO ISSUE NOTE.

Application No. 2677.

Decided January 9, 1917.

Applicant authorized to issue its note or notes of the aggregate sum of \$750.00, bearing interest at 7 per cent per annum for a period of not to exceed three years, such notes to be issued for the purpose of retiring notes of a like face value now due.

R. R. Kennedy, for Applicant.

BY THE COMMISSION.

OPINION.

The Campbell Water Company applies for authority to issue its unsecured promissory note for \$750.00 and use the proceeds to pay its two demand notes in favor of The Bank of Campbell with interest at 7 per cent per annum, one for \$250.00, dated February 11, 1916, and one for \$500.00, dated March 8, 1916.

Applicant is engaged in serving water to the inhabitants of Campbell, an unincorporated town in Santa Clara County, and reports a satisfactory and steadily growing business. It has an authorized capital stock of \$25,000.00, divided into 1,000 shares of the par value of \$25.00 each, of which 520 shares of the total par value of \$13,000.00 are issued and now outstanding. It has no other indebtedness than the two notes described and for several years has been paying satisfactory dividends.

The proceeds of its two said notes were used for additions and betterments to its plant and system, \$489.19 being for the purchase and installation of a pressure pump to increase the pressure for fire fighting purposes pursuant to an understanding that fire hydrants will be installed by popular subscription.

ORDER.

The Campbell Water Company having applied to the Railroad Commission for authority to issue its unsecured note for \$750.00, and use the proceeds to retire two notes hereinafter described, and a public hearing having been held thereon and in the opinion of the commission the money to be procured by said issue of note is reasonably required for the purpose specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered by the Railroad Commission of the State of California that The Campbell Water Company be and it is hereby

authorized to issue its unsecured promissory note or notes in the aggregate sum of \$750.00 to bear interest at a rate not exceeding 7 per cent per annum and to sell said note or notes for cash at not less than the face value thereof net to applicant and from the proceeds of the sale of said note or notes pay and cancel its two demand notes in favor of The Bank of Campbell, each bearing interest at the rate of 7 per cent per annum, one note for \$250.00 being dated February 11, 1916, and one note for \$500.00 being dated March 8, 1916.

The note or notes hereby authorized may be extended or reissued from time to time provided the aggregate term or terms of said note or notes shall not exceed the total period of three years after date hereof.

The authority hereby granted is upon the following conditions and not otherwise:

1. Within ten days after date of issue or reissue or renewal of said note or notes, applicant shall report in writing the fact and date thereof, with amount, term and payee of said note or notes.
2. The authority hereby granted shall apply only to such notes as may be issued and sold on or before March 1, 1917.
3. The authority hereby granted shall not become effective until applicant shall have paid the fee specified in the Public Utilities Act.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3996.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER PRELIMINARY TO THE ISSUE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY RELATIVE TO EXERCISE OF FRANCHISE RIGHTS NOT YET SECURED, IN LOS ANGELES COUNTY.

Application No. 2682.

Decided January 9, 1917.

Applicant has obtained a number of franchises which provide for the completion of construction work within a period of three years, for the purpose of constructing necessary extensions and improvements, it has applied for a franchise permitting construction work during the entire period of time, and applies for and is granted a permit preliminary to the issuance of a certificate of public convenience and necessity authorizing exercise of rights thereunder.

A. E. Peal, for Applicant.

BY THE COMMISSION.

OPINION.

This application under section 50 (c) of the Public Utilities Act results from the fact that applicant's five franchises hereinafter

described each contain a clause requiring it to complete its construction under the franchise within a period of three years from the respective dates hereof. This clause raises the question of the right of applicant to make necessary extensions from time to time to properly serve the public.

After conference with the board of supervisors of Los Angeles County, applicant has arranged to request the board to offer for sale a new franchise authorizing construction thereunder from time to time during the entire period of 40 years.

Applicant's present franchises were granted by the county of Los Angeles upon the dates and for the terms and in the ordinances shown below:

	Date	Term In Years
Ordinance No. 240.....	July 25, 1910	50
Ordinance No. 270.....	July 5, 1911	40
Ordinance No. 330.....	July 28, 1913	40
Ordinance No. 331.....	July 28, 1913	40
Ordinance No. 332.....	July 29, 1913	40

Under these franchises applicant has laid its pipes and has been engaged in the business of serving gas during most of the time subsequent to the dates shown.

The proposed new franchise is designed to facilitate its business and there appears to be no objection to it from the standpoint of the public or of applicant's patrons.

ORDER.

The Southern California Gas Company having applied to the Railroad Commission pursuant to Section 50 (c) of the Public Utilities Act for an order preliminary to the issue of a certificate that public convenience and necessity will require the exercise of rights or privileges under a franchise which applicant contemplates securing but which has not as yet been granted to it, and a public hearing having been held thereon,

It is hereby ordered by the Railroad Commission of the State of California, that said commission does hereby declare that it will hereafter upon application and the presentation to the commission of evidence satisfactory to it showing that The Southern California Gas Company has obtained the said contemplated franchise, issue its certificate that public convenience and necessity require the exercise by said applicant of the rights and privileges conferred by the contemplated franchise, but upon such terms and conditions as to territory to be served, or otherwise as the Railroad Commission may impose.

Dated at San Francisco, California, this 9th day of January, 1917.

DECISION No. 3997.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF NINETEEN THOUSAND DOLLARS; PREFERRED STOCK OF THE PAR VALUE OF SIXTY-SEVEN THOUSAND DOLLARS, AND COMMON STOCK OF THE PAR VALUE OF TWENTY-ONE THOUSAND FIVE HUNDRED DOLLARS.

Application No. 2337.

Decided January 10, 1917.

Applicant applies for permission to issue securities to provide funds for the purpose of discharging notes, for sinking fund purposes and for additions and betterments. Investigation showing that its books of accounts have been kept in a very unsatisfactory condition, it is authorized to issue \$46,000.00 par value of its preferred stock for the purpose of constructing necessary additions and betterments, provided it shall first have raised sufficient money to pay interest due on bonds, discharge notes and for sinking fund purposes from stock assessments and the return of moneys due from its officers.

C. S. S. Forney, for Applicant.

Crittenden & Simmons, for Chas. F. Leege and J. Molgaard, stockholders of applicant, Protestants.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

On October 10, 1916 (Decision No. 3777), this commission issued its second supplemental order in the matter herein, authorizing Central California Gas Company to issue and sell \$87,500.00 par value of its 7 per cent prior preferred stock and to use the proceeds for purposes therein specified. Thereafter, on October 20, 1916, the protestants herein, Charles F. Leege and J. Molgaard, as stockholders of Central California Gas Company, petitioned this commission for a rehearing upon Application No. 2337 and requested further that this commission make an order suspending its second supplemental order (Decision No. 3777), in which Central California Gas Company had been authorized to issue \$87,500.00 par value of its 7 per cent prior preferred stock.

In the proceedings under the application herein, Central California Gas Company has been authorized to issue, and has issued, \$7,000.00 face value of its 6 per cent bonds, the order of the commission having specified that the proceeds from the sale thereof should be used to reimburse applicant's treasury and thereafter devoted solely to the payment then due of the interest on applicant's outstanding bonds. In these proceedings the applicant has also been authorized to issue certain shares of its 6 per cent preferred and common stock, all of which authorizations, however, were superseded by the order of October 10, 1916 (Decision No. 3777), in which the applicant was

authorized to issue the \$87,500.00 par value of its 7 per cent prior preferred stock.

Upon the showing of protestants this commission, on November 2, 1916, issued an order suspending its second supplemental order theretofore made in this proceeding and directed that a further hearing be held.

Subsequently, on November 20, 1916, Central California Gas Company filed its fourth supplemental application in this matter, asking authority to issue \$50,000.00 of 6 per cent notes and to pledge as security therefor \$50,000.00 par value of its 7 per cent prior preferred stock.

Hearings have been held at which the applicants and protestants and the commission presented detailed information relating to the affairs of this applicant.

The authority given in connection with this application for the issue of stock applied, as specified in the commission's orders, to such stock as should be issued on or before December 31, 1916. As no stock has been issued under said orders, they have automatically lapsed. We have before us, therefore, for consideration the supplemental application of Central California Gas Company to issue \$87,500.00 par value of its 7 per cent prior preferred stock and its subsequent application to issue \$50,000.00 of 6 per cent notes and to pledge \$50,000.00 par value of preferred stock as collateral therefor.

The applicant proposes to issue its stock or notes for the purpose of meeting its sinking fund requirements in the sum of \$12,000.00 to pay its notes and accounts payable in the sum of \$29,000.00 and to provide for additions and betterments to its system in the sum of \$46,590.95.

At the hearing upon this matter it developed from the report presented by Mr. L. R. Reynolds, auditor of the commission, that the applicant's books of account for the period from January 1, 1916, to October 31, 1916, had been so kept as to reflect a false instead of a true statement of the applicant's financial condition. The report showed that the books were kept to show a profit in excess of that actually earned amounting to \$12,693.68; that amounts had been charged to contingent reserve which were properly chargeable to operation; that the surplus account had been misstated, and that the records disclosed persistent discrepancies and irregularities. Mr. Reynolds also reported that the applicant had made no provision for setting aside a proper depreciation reserve and, in fact, that it had undertaken to deplete the meager reserve which had been provided.

This report of Mr. Reynold's disclosed also that Mr. Forney, president of this applicant, had taken from the company's funds \$4,926.05, which he had charged to himself on open account; that \$4,200 of this

amount had been received by him since January 1, 1916; and that in many transactions Mr. Forney had so blended his personal account with company affairs that no satisfactory explanation was obtainable from the books of the company.

Mr. Richard Sachse, chief engineer of the Railroad Commission, submitted a report on the value of the properties of the Central California Gas Company, which confirms the report of Mr. Reynolds as to the failure of this applicant to provide adequate depreciation reserves. It appears that the applicant has incurred unnecessary expense in the conduct of the business.

Under the circumstances as herein shown, we are unwilling to recommend that the applicant issue stock or notes as requested in the applications now before us. We believe that the money borrowed from this applicant by any of its officials should be forthwith returned and unnecessary expenses discontinued. It will be necessary also for the applicant to provide additional means through the medium of an assessment to take care of its sinking fund, and to pay its pressing obligations. For this purpose it will be necessary for the applicant to raise, in the manner here indicated, that is, through the return of funds and by means of an assessment, a sufficient amount to pay its sinking fund to the amount of \$12,000.00, its notes amounting to \$29,000.00 and the interest now due on its outstanding bonds, approximately \$8,000.00, or a total of \$49,000.00.

Thereafter the applicant may be authorized by supplemental order to issue 7 per cent prior preferred stock to provide funds to pay for the needed additions and betterments amounting to \$46,590.95. I believe, however, that this applicant should not be permitted to sell any of this prior preferred stock until it shall have adjusted its accounts to the satisfaction of this commission; shall have secured the return of the money due from its officers; and shall have presented evidence satisfactory to this commission that it has discharged its outstanding notes and indebtedness payable; that it has paid the interest now due and has made good the deficiency in its sinking fund.

We recommend that applicant be authorized to issue 7 per cent prior preferred stock, subject to the conditions of the following order:

ORDER.

Central California Gas Company having made application to this commission, as set forth in the foregoing opinion, and a hearing having been held and it appearing that the purposes for which the applicant herein is authorized to issue said prior preferred stock are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Central California Gas Company be granted authority and it is hereby granted authority to issue and sell \$46,000.00 par value of its 7 per cent prior preferred stock. The authority herein given is given upon the following conditions and not otherwise:

1. Before any of the stock herein authorized to be issued shall be issued the applicant shall assess its stock now outstanding and shall collect the moneys due from any of its officers, and from the funds thus received shall pay the interest now due on its outstanding bonds; shall pay the sum of \$12,000.00 or \$12,000.00 face value of its outstanding bonds into its sinking fund to make good the deficiency in said sinking fund; and shall discharge its notes payable and indebtedness in the sum of \$29,000.00.

2. None of the stock herein authorized to be issued shall be issued until this commission shall have issued a supplemental order setting forth the terms and conditions of said issue and finding as follows:

(a) That the applicant has presented satisfactory proof that it has performed all of the acts set forth under condition (number 1) of the order herein.

(b) That the applicant has adjusted its books of accounts to the satisfaction of this commission.

As to all other matters involved in this application and the applications supplemental thereto, they are hereby dismissed.

Dated at San Francisco, California, this 10th day of January, 1917.

Decision No. 3998, grade crossing; not printed. See end of volume.

DECISION No. 3999.

FREDERICK CUTTLE ET AL.

vs.

HANFORD GAS AND POWER COMPANY.

Case No. 945.

Decided January 11, 1917.

Complaint alleging inadequate service and unreasonably high rates in connection with the gas system operated by defendant in the city of Hanford.

Subsequent to the filing of complaint defendant submitted a revised schedule of rates which schedule is deemed reasonable and established to become effective January 1, 1917. First 1,000 cubic feet, \$1.70 per thousand; next 4,000 cubic feet, \$1.60 per thousand; next 5,000 cubic feet, \$1.45 per thousand; next 10,000 cubic feet, \$1.35 per thousand; next 20,000 cubic feet, \$1.10 per thousand; all over 40,000 cubic feet, \$0.95 per thousand. Discount in all classes \$0.10 per thousand. Monthly minimum \$1.00.

Defendant has, subsequent to filing of complaint, been granted permission to issue bonds, certain of the proceeds of which will be used in the construction of high pressure mains and for general improvements to the service. Such construction, when completed, will eliminate present causes of complaint against the service of defendant. Management expected to take immediate steps to secure all new business available, disputes as to future extensions to be submitted to the commission for adjustment.

R. Justin Miller and S. J. W. Sharf, for Complainants.

John F. Pryor and C. S. S. Forney, for Defendant.

LOVELAND, Commissioner.

OPINION.

This is a complaint filed by thirty-one residents of the city of Hanford against the Hanford Gas and Power Company, alleging insufficiency and inadequacy of defendant's gas plant and system, refusal to make the necessary extensions to prospective consumers, unreasonable and exorbitant rates for gas and inadequate service on the part of defendant. A hearing was held at Hanford, Kings County, California, on September 19, 1916.

Defendant is a corporation engaged in the gas utility business in the city of Hanford, Kings County, California. The Hanford Gas and Power Company was incorporated December 12, 1902, with an authorized capital stock of \$100,000.00 divided into 100,000 shares of the par value of \$1.00 each, all outstanding, of which 99,400 shares are held by five persons.

No dividends have ever been paid on the stock of this company. All surplus earnings have been used to build up the properties. The company has outstanding a bond issue of \$40,000.00 which matured July 1, 1916. It proposes to refund this bonded indebtedness and increase the same to a total of \$70,000.00, for which authority has been granted by this commission in Decision No. 3967, Application No. 2639.

The generating plant consists of two 4-foot straight-shot oil gas sets with a total capacity of 240,000 cubic feet for 24 hours. There are the usual boilers, purifiers, scrubbers, blowers and other accessories. The storage capacity consists of one 30,000 cubic-foot relief holder and a 100,000 cubic-foot storage holder of steel construction. The plant is modern, and, with proper operation, will produce efficient results.

The distribution system consists of 13 miles of low-pressure mains, varying in size from 6 inches to 2 inches, and connected to about 720 services and meters. The annual sales of gas for the year 1915, as shown by the company's report to this commission, was 14,269,400 cubic feet, which is an average of about 40,000 cubic feet per day. Comparing this figure with the generator and storage capacity, it is very evident that the production facilities are ample for a much heavier demand for gas and that the reserve capacity of storage holders will provide for all fluctuations with a greatly increased consumption. However, the dis-

tribution system requires extensions and reinforcements, if it is to adequately serve this community.

The territory served by the Hanford Gas and Power Company is, at the present time, almost exclusively confined to the city of Hanford, with an estimated population of 6,500, and 4,829 by the Federal Census of 1910. The population is increasing steadily and in one subdivision some fifty houses have been built within the last two years. The city of Hanford is compactly built and a large number of new consumers can be connected to the present lines with but a moderate expenditure.

The present average consumption of gas is less than 20,000 cubic feet per year per meter. It would not be unreasonable to expect to see this increased to at least 25,000 cubic feet. Both the number of consumers and the consumption per meter can probably be increased through a well-planned and carefully developed business campaign.

A valuation of the company's properties, as of June 30, 1916, was made by Assistant Engineer Gaskell S. Jacobs, of the commission's gas and electric department, and showed the value of defendant's physical properties as follows:

Reproduction cost new.....	\$101,393 61
Reproduction cost less depreciation.....	76,315 05

A detail of the valuation of defendant's physical properties, from commission's Exhibit No. 2, is shown in Table I, following:

TABLE I.

Valuation of the Property of the Hanford Gas and Power Company, June 30, 1916.

C. R. C. account number and item	Reproduction cost	Condi- tion, per cent	Reproduction cost less depreciation
C- 2—Franchise (gas)	\$250 00	-----	\$250 00
C- 5—Land devoted to gas operation.....	2,250 00	-----	2,250 00
C- 7—Gas plant buildings and general structures	4,749 58	72.2	-----
C- 8—Holders	20,061 00	81.1	16,878 36
C- 9—Furnaces, boilers and accessories.....	2,372 47	73.0	1,732 63
C-10—Gas generators	6,723 70	59.1	3,974 21
C-11—Purification apparatus	5,160 65	69.6	3,593 41
C-12—Steam engines	685 00	73.7	505 06
C-14—Miscellaneous gas plant equipment.....	413 40	86.6	357 93
C-16—Accessory equipment at works.....	5,987 89	75.9	4,543 55
C-17—Miscellaneous production equipment.....	543 00	75.0	406 90
C-22—Distribution mains	23,188 67	76.4	17,720 04
C-23—Gas services	8,036 83	65.0	5,223 94
C-24—Gas meters	6,877 00	68.3	4,695 93
C-30—Miscellaneous distribution equipment.....	1,810 00	64.2	1,162 50
C-32—General equipment	200 00	80.0	160 00
C-35—Undistributed construction expenditures...	8,247 14	75.5	6,140 65
C-36—Interest during construction.....	2,218 83	75.5	1,674 62
C-38—Stores and supplies on hand for use in California	1,618 36	100.0	1,618 35
Grand totals	\$101,393 61	75.2	\$76,315 05

Table II presents a balance sheet of the Hanford Gas and Power Company as of December 31, 1915, from the company's annual report to this commission.

TABLE II.

Hanford Gas and Power Company Balance Sheet, December 31, 1915.

Assets—		
Fixed capital		\$202,060 96
Cash		6,943 83
Accounts receivable		4,776 38
Material and supplies		1,109 01
		<hr/>
		\$214,890 18
Liabilities—		
Capital stock		\$100,000 00
Funded debt		40,000 00
Consumers' deposits		526 00
Accounts payable		551 84
Interest accrued		3,679 69
Taxes accrued		672 61
Reserve for depreciation		9,129 00
Corporate surplus		59,331 04
		<hr/>
		\$214,890 18

Table III shows a statement of the income account of the company for the years 1913, 1914 and 1915, taken from commission's Exhibit No. 7, with comment and adjustment made after an investigation of the company's books and accounts.

TABLE III.

Hanford Gas and Power Company—Income Statement.

	1913	1914	1915
Revenue—			
From sales of gas	\$24,747 37	\$25,619 19	\$24,134 47
Other gas revenue	12 72		463 50
Merchandise and jobbing revenue	350 00		131 89
By-product revenue		4 15	12 25
	<hr/>	<hr/>	<hr/>
Total revenue	\$25,110 09	\$25,623 34	\$24,742 11
Operating expenses—			
Production	\$8,925 66	\$9,581 72	\$9,882 65
Distribution	2,080 53	2,263 78	2,232 01
Commercial	17 69		
General	2,044 28	2,767 20	2,975 87
Taxes	1,233 92	1,208 09	1,411 09
Depreciation	3,325 34		5,803 66
	<hr/>	<hr/>	<hr/>
Total operating expenses	\$17,627 42	\$15,820 79	\$22,304 78
	<hr/>	<hr/>	<hr/>
Net operating income	\$7,482 67	\$9,802 55	\$2,437 33
Deduct—			
Uncollectible bills		\$380 85	\$383 26
Interest on funded debt	\$2,667 82	2,400 00	2,400 00
Other interest	392 18	435 00	95 00
	<hr/>	<hr/>	<hr/>
Total deductions	\$3,060 00	\$3,215 85	\$2,878 26
	<hr/>	<hr/>	<hr/>
Balance to surplus	\$4,422 67	\$6,586 70	\$440 93

Making corrections for reasonable depreciation allowance, and for replacements chargeable to reserve instead of to operating expenses, the balance to surplus would be:

1913	\$6,015.83
1914	4,586.70
1915	3,862.73

Assistant Engineer Jacobs further made a complete investigation of revenue, operating expenses, gas manufactured and sold, consumers, and other factors affecting rates and service, all of which is in the record of this case.

It was very evident from a study of the facts in this case that defendant's gas business has not kept pace with the growth of the community it serves. Defendant's revenues for the years 1913, 1914 and 1915 have not shown any material increase nor has the number of consumers receiving service. Defendant's expenses have increased from year to year but defendant has not apparently foreseen the necessity of making extensions or increasing the business connected to its system and the necessary improvements to its service demanded by the growth of the community.

The company is owned and operated by parties having other extensive interests of many kinds and they have admitted their neglect of the gas business in Hanford. For some time past they have recognized the necessity of extensions and modifications to their system such as will result in adequate service in their community, but have not had funds at their disposal, nor have the recent earnings of the plant been sufficient to provide them with funds for these purposes.

The unsatisfactory earnings shown by defendant have resulted because the owners of this property have devoted their energies to their other interests, and not to their public utility. We are assured that they will now vigorously apply themselves to the gas business in Hanford. We expect them to do so. Our desire to see defendant earn satisfactory returns is due to our belief that a utility which is not successful usually can not serve the public well. We confidently expect defendant to improve its system and service and develop its business to a point which will prove satisfactory to its patrons, to the commission, and to itself.

Complainants introduced testimony through fourteen witnesses, all present or prospective consumers, whose testimony was to the general effect that the company has not made the necessary extensions, that the pressure of gas was insufficient at certain periods of heavy consumption, that the quality of gas was poor and that the pressure was low. Evidence was introduced in the form of bills rendered consumers showing the comparatively high rates charged by the company. Their testimony further showed that while complaints were numerous, the company had in every instance endeavored to effect a temporary, if not permanent, relief. Complainants introduced evidence comparing gas rates in Hanford with gas rates elsewhere in cities of the same character. Such comparisons are in no measure a guide to either the reasonableness of the rates or to the value of the service and are not in any sense conclusive evidence on these points.

It was stipulated, with reference to future extensions, that in the event of disagreement between the company and a prospective consumer, that a complete statement of the situation covering probable cost of extension, probable revenue to be derived, and other pertinent items, should be submitted to the commission's engineering staff for adjustment.

At the time of the hearing of this complaint, defendant had been charging the following schedules of rates:

Quantity per month	Gross per 1,000 cubic feet	Discount per 1,000 cubic feet	Net per 1,000 cubic feet
600 to 5,000 cubic feet.....	\$2 00	\$0 25	\$1 75
5,100 to 20,000 cubic feet.....	2 00	50	1 50
20,100 cubic feet and over.....	2 00	75	1 25

Minimum charge per month per meter, \$1.00.

Since the hearing defendant has filed the following schedule of rates, effective January 1, 1917:

For gas used in any one month:

Quantity per month	Gross per 1,000 cubic feet	Discount per 1,000 cubic feet	Net per 1,000 cubic feet
For the first 1,000 cubic feet or less.....	\$1 70	\$0 10	\$1 60
For the next 4,000 cubic feet.....	1 60	10	1 50
For the next 5,000 cubic feet.....	1 45	10	1 35
For the next 10,000 cubic feet.....	1 35	10	1 25
For the next 20,000 cubic feet.....	1 10	10	1 00
For all over 40,000 cubic feet.....	95	10	85

Minimum charge per month per meter, \$1.00.

Since the hearing in this case the defendant company has applied for authority to mortgage its property to the extent of \$70,000.00, of which \$40,000.00 is to be used in retiring a matured bond issue and the remainder of \$30,000.00 to be used for extensions and betterments to its plant and system. The company proposed to spend this \$30,000.00 in the construction of a high pressure belt line encircling the town and running largely through productive territory, to effect a vigorous commercial campaign with the ultimate object of adding three to four hundred consumers to their system, to reinforce their present system and improve the same so that an adequate supply of gas under sufficient pressure shall at all times be available.

In Decision No. 3967, in the above mentioned application No. 2639, this commission has authorized the defendant herein to incur a bonded indebtedness of \$70,000.00, to issue \$50,000.00 of said bonds at the present time, using the proceeds for the refunding of the \$40,000.00 matured bond issue and \$10,000.00 for immediate improvements to its

system, and, under the authority of subsequent supplemental orders of this commission, to spend the remaining \$20,000.00 on further extensions and improvements. As a result of obtaining these funds, applicant will be in a position to make all necessary extensions to supply three to four hundred new consumers in the city of Hanford and to make such changes to its plant and system as will effectively dispose of complaints based upon insufficient pressure, inadequate supply, and lack of facilities.

Defendant's rates are high compared with other gas rates in force in this state. Its business has not been given the attention due it from its owners and management and it has not kept pace with the growth of its territory. At the present time its business is practically stationary and unless serious efforts are made to introduce improved methods and to take on new business, defendant's future does not look promising.

A study of defendant's operating expenses and the testimony introduced in this case shows that defendant's present rates, although high, are in no sense remunerative and that on the present showing defendant is making only a small profit over operating expenses. We can not under such conditions, reduce the defendant's rates for gas. Defendant has, however, after consultation with the commission's engineering staff, filed with this commission a new schedule of rates, effective January 1, 1917, which voluntarily makes a substantial reduction over the former rates in effect at the time of filing this complaint. These new rates result in a decrease in the price of gas of approximately twenty cents per thousand in the case of an average consumer and are of such a form as to encourage the increased consumption of gas and to offer greater inducement to prospective consumers.

In view of the fact that the defendant's present rates are unremunerative and that defendant contemplates in the immediate future such a substantial change in the size of its system as to render rate computations on the basis of the present consumers unreliable, we believe that the new rates filed by defendant company are satisfactory rates in so far as they effect a reduction in the price to consumers, and offer the inducements necessary to increase defendant's business.

Reference is hereby made to Decision No. 3967, in Application No. 2639, for pertinent comment on the operating expenses and business of defendant, all of which is of interest in the present matter.

Among the causes responsible for the comparatively high rates of defendant company may be cited, first, the inefficiency of the process of gas generation, requiring a large outlay for fuel oil, and secondly, the over-installation of the production facilities of the plant, the burden of which has to be borne by a small number of consumers using a small

amount of gas. With reference to the first of these factors, the company has succeeded in the latter part of the year 1916 in reducing the amount of oil used per thousand cubic feet from approximately eighteen gallons to twelve gallons. The second condition can only be remedied by obtaining a sufficient number of new consumers and increasing the consumption of all consumers, so that the burden of fixed charges can be distributed over a greater number of consumers and a larger quantity of gas sales. These facts have been called to the attention of defendant's management and we are assured that it is with a full appreciation of these conditions that their future course will be directed.

In lieu of a brief the defendant company has filed with this commission, under date of November 24, 1916, a letter stating their intentions of making extensions and betterments to the system, improving service conditions and the conduct of their business, and, further, that it is their purpose to make every possible effort to remedy conditions which have occasioned complaints against the company in the past and to make such general improvements as will eliminate the possibility of any complaints in the future. They further state that the new schedule of rates filed will not at the present time provide them with more than a small profit over bond interest, but that with a vigorous commercial campaign they hope to build up their business within a year's time, so that if their efforts prove fruitful that they will at a later date be able to further reduce the rates.

We are satisfied that this proceeding has impressed the defendant utility with the urgent necessity of making extensions and improving its service generally. We have their assurance that they will make every effort along these lines, and we have authorized elsewhere the means of obtaining funds for improvements. Defendant has voluntarily filed a schedule of reduced rates. Investigation shows that the former rates, although high, did not yield an adequate return and that the reduced rates filed will not at the present time yield defendant much in excess of current operating expenses. These reduced rates, however, will materially aid defendant to build up its business, which will ultimately reflect advantageously upon all of defendant's consumers.

It is evident from a study of this situation that defendant can earn an adequate return under reduced rates, only if its production methods are improved, its consumers increased to one thousand or more, and its business efficiently managed and developed. Such development should be expected in view of the existing conditions in and about Hanford. In our judgment, immediate development of this fertile territory is essential to defendant's future success.

In view of all the conditions set forth above and considering the fact that the immediate future will entirely modify conditions and costs under which defendant will continue to supply gas, all of which are problematical, it is our opinion that the new schedule of rates filed by defendant, effective January 1, 1917, are fair and reasonable rates and that as such we would recommend their acceptance in final adjustment of this matter.

I find as a fact that in the past defendant company has not adequately or satisfactorily served its consumers and that it has not made the necessary extensions required by the normal growth of its territory, that its rates in effect at the time of filing this complaint were unjust and unreasonable in so far as said rates departed from just and reasonable rates herein established.

I submit the following form of order:

ORDER.

It is hereby ordered that defendant company at once take all those necessary measures to provide adequate service to its consumers, to make all extensions necessary to completely serve all applicants for service within its territory, provided such extensions are not in themselves unremunerative.

It is further ordered that the following rates are just and reasonable rates for gas service in the city of Hanford and, as such, are approved by this commission as effective January 1, 1917, as filed:

*Schedule of Gas Rates—Hanford Gas and Power Company.
Effective January 1, 1917.*

For gas used in any one month:

Quantity per month	Gross per 1,000 cubic feet	Discount per 1,000 cubic feet	Net per 1,000 cubic feet
For the first 1,000 cubic feet or less.....	\$1 70	\$0 10	\$1 60
For the next 4,000 cubic feet.....	1 60	10	1 50
For the next 5,000 cubic feet.....	1 45	10	1 35
For the next 10,000 cubic feet.....	1 35	10	1 25
For the next 20,000 cubic feet.....	1 10	10	1 00
For all over 40,000 cubic feet.....	95	10	85

Minimum charge per month per meter, \$1.00.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1917.

DECISION No. 4000.

F. STADELMANN

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 998.

Decided January 11, 1917.

Residents of Marin County having made complaint that the service of defendant company between San Francisco and Marin County points, between 9.30 and 11.30 p.m., is of considerable inconvenience to patrons owing to the long delay between boats, and it appearing that there is sufficient demand to warrant the operation of an additional boat on Saturdays, defendant directed to operate under the following schedule Saturday nights only: 9.15, 10.45 p.m., 12.00 midnight, 1.00 or 1.15 a.m.

Maurice L. Asher, for Complainant.

Stanley Moore, for Defendant.

GORDON, *Commissioner*:

OPINION.

This is a complaint on behalf of F. Stadelmann and ten hundred forty-nine other persons alleging that by reason of no ferry and electric suburban service on the line of the Northwestern Pacific Railroad between San Francisco and points in Marin County between the hours of 9.30 and 11.30 p.m., complainants are caused great discomfort and inconvenience and the commission is requested to establish by its order a ferry and suburban electric train service connecting therewith leaving San Francisco at approximately 10.45 p.m. of each day. The defendant filed its answer denying the material allegations of the complaint.

A public hearing was held at San Francisco on December 26, 1916, the matter was submitted and is now ready for decision.

Complainants in this case are principally business men and employees of small mercantile establishments in the city of San Francisco who reside at various locations in Marin County and who are served by the ferry and electric suburban trains of the defendant, Northwestern Pacific Railroad Company. Many of the complainants are the owners of small retail stores in San Francisco or are employed in such establishments. For the transaction of business these small retail stores remain open in the evening, especially on Saturday nights, until the hour of 10.00 p.m. The present schedule of the Northwestern Pacific Railroad Company provides for ferry boats leaving San Francisco for Sausalito, with connecting electric suburban trains from the latter point, at 9.30, 11.30 p.m. and 12.45 a.m. Complainants are compelled to await the time of departure of the 11.30 p.m. ferry to be transported to their various homes in Marin County and testified as to the inconvenience

caused by the lack of transportation and the long hours they were forced to remain away from their homes.

From April 30, 1911, to November 5, 1912, a boat from San Francisco to Sausalito was operated, leaving at 10.45 p.m.; on November 6, 1912, and until April 15, 1916, the time of departure from San Francisco was at 11.15 p.m.; from April 16, 1916, to the present time the time of departure was at 11.30 p.m., the last change having been made at the request of a number of the patrons of the defendant company who found the time of departure a convenient one, especially for patrons who had attended theaters, lectures, entertainments, etc., in San Francisco. The change of the leaving time of this ferry, while satisfactorily accommodating the theater patrons of the defendant, increased the delay for such patrons as the complainants in this proceeding. The 9.30 p.m. boat is one at an hour for which there appears to be a popular demand, this hour serving residents of Marin County having business in San Francisco who may desire to remain over for dinner and also serves on week days, excepting Saturday, a considerable patronage of attendants of night schools in San Francisco.

I have carefully considered the evidence presented in this case and am not convinced that there exists a sufficient demand for an intermediate ferry boat and accompanying train service between the boats scheduled for 9.30 and 11.30 p.m. on each day of the week. On Saturdays, however, the majority of the smaller retail establishments in San Francisco keep their places of business open for the accommodation of their patrons until 10.00 p.m., and I am of the opinion that service as sought by the complainants should be established on Saturdays only and that a full and complete record of the revenue derived from such service should be kept by the defendant company and furnished to this commission. In order that the service may be performed without the necessity of adding another steamer to fill the schedule, except on Saturday night, I would suggest that the Saturday only schedule provide for boats to leave San Francisco for Sausalito with electric train connections from the latter point approximately as follows: 9.15 and 10.45 p.m.; 12.00 midnight; 1.00 or 1.15 a.m.

I recommend the following form of order:

ORDER.

F. Stadelmann having made complaint alleging inconvenience by reason of no ferry service on the line of the Northwestern Pacific Railroad Company between San Francisco and Sausalito and connecting suburban train service to Marin County points between the hours of 9.30 and 11.30 p.m., a public hearing having been held and the commission being fully advised in the premises.

It is hereby ordered that the Northwestern Pacific Railroad Company establish a ferry service from San Francisco to Sausalito with connecting electric suburban train service to Marin County points, leaving San Francisco, Saturdays only, at 10.45 p.m., and continue same for a period of three months and thereafter until otherwise ordered by this commission.

It is further ordered that the Northwestern Pacific Railroad Company keep a true and accurate account of all revenue derived from the operation of the ferryboat and connecting suburban trains hereby authorized and file same with this commission.

The commission reserves the right to make such other and further orders in this proceeding as to it may appear right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1917.

DECISION No. 4001.

J. C. HARTMAN ET AL.

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1007.

Decided January 11, 1917.

Complainants petition the commission to compel defendant company to replace its combination freight and passenger depot in the city of Merced, recently destroyed by fire, by a separate freight and passenger buildings, and it appearing that traffic does not warrant the construction of separate buildings, defendant directed to construct a combination building, such depot to contain sanitary facilities and woman's rest and waiting rooms.

F. W. Henderson, for Complainant.

M. W. Reed, for Defendant.

GORDON, *Commissioner*.

OPINION.

This is a complaint on behalf of J. C. Hartman et al., as members of and constituting the City Planning Commission of the city of Merced, requesting that this commission order the erection of separate freight and passenger stations by The Atchison, Topeka and Santa Fe Railway Company in the city of Merced to replace the combination freight and passenger station heretofore destroyed by fire. The defendant filed its answer denying the necessity for the construction of separate stations

for the accommodation of freight and passenger traffic and stating its intention to reconstruct the combined freight and passenger station in the city of Merced substantially as same existed prior to its destruction by fire.

A public hearing was held in Merced on November 8, 1916, the matter was submitted and is now ready for decision.

The combined freight and passenger station of The Atchison, Topeka and Santa Fe Railway was located on the northeasterly quarter of the block bounded by K street, Twenty-fourth street, J street and Twenty-third street in the city of Merced. The station was totally destroyed by fire on August 18, 1916, and it was the intention of the defendant company to reconstruct same along the lines of the structure destroyed by fire. The complainants desiring separate stations, filed complaint with the commission seeking the construction of separate facilities and for the erection of a passenger station of more ornate design.

The former combined freight and passenger station was a one-story wood frame structure, twenty-six by one hundred fifty feet in size. The passenger and office portion of the structure was about twenty-six by fifty-five feet in size, an open waiting room eighteen by twenty-six feet being provided at one end. The arrangement for passenger accommodation was not modern in that no toilet facilities were provided within the structure and there was no separate waiting or retiring room provided for women passengers. In these respects the passenger facilities provided by the former station were inadequate and unsuitable for the needs of the defendant's patrons.

The present population of the city of Merced is about four thousand people. The facilities herein provided will be ample to accommodate the needs of Merced.

The present location of the station is seven blocks north and two blocks east of the business section of the city, and it is estimated that from 25 to 35 per cent of the passenger business and approximately 50 per cent of the local freight business of the city of Merced is enjoyed by the defendant corporation.

Various locations were discussed at the hearing for the establishment of a separate passenger station, one of same involving the closing of K street. It appears that the sentiment of the citizens of Merced is strongly against the closing of K street. Another suggested location was in the depot park in the northwesterly corner of the block in which the station facilities are located. This park, however, has been in process of development for some fifteen years and should not be eliminated at this time.

In view of all the evidence presented in this matter, I am of the opinion that the complainants have not justified the necessity for the erection of separate freight and passenger stations by The Atchison,

Topeka and Santa Fe Railway Company in the city of Merced. I am, however, of the opinion that the reconstruction of the joint freight and passenger station should include provision for sanitary toilets within the station and also for a women's rest or retiring room.

I recommend the following form of order:

ORDER.

J. C. Hartman et al. having filed complaint with this commission requesting that separate freight and passenger stations be provided by The Atchison, Topeka and Santa Fe Railway Company in the city of Merced, a public hearing having been held and the commission being fully advised in the premises,

It is hereby ordered that in the reconstruction of the joint passenger and freight station at Merced to replace the station heretofore destroyed by fire, arrangements be made for the installation of sanitary toilets and for a women's rest or retiring room, and that plans specifying such facilities be presented to this commission for its approval within thirty days after effective date of this order, and

It is hereby further ordered that as to the other matters covered by the above-entitled complaint, same are hereby dismissed.

The above opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1917.

DECISION No. 4002.

P. J. MURRY ET AL.

vs.

REDONDO WATER COMPANY.

Case No. 979.

Decided January 11, 1917.

Complaint against the rates and rules of respondent company operating a water distributing system in the city of Redondo Beach: The following schedule established to become effective February 1, 1917: first 300 cubic feet, 33½ cents per 100; 300 to 1,000 cubic feet, 20 cents per 100; 1,000 to 2,000 cubic feet, 17½ cents per 100; over 2,000 cubic feet, 15 cents per 100. Monthly minimum ranging from \$1.00 for ½-inch connection to \$3.00 for a 2-inch connection. Rates for municipal uses also established.

Held, 1. A water utility serving two or more houses through one service connection and one meter can not collect more than the one minimum for such service.

2. A water utility whose plant was primarily constructed for the purpose of marketing lots can not claim an amount covering early losses in its operation as development cost and expect the commission to allow a return thereon.

3. Of the two methods of determining a proper allowance for depreciation and obsolescence, the sinking fund method is found to be the most suitable in the present instance. The sum of \$2,347.44 is allowed under this head which includes sufficient allowance to retire operating equipment such as automobiles, etc.

4. Extraordinary expense incurred by a utility in repair work, such as that incurred by respondent in the repair of its reservoir, is properly chargeable to capital account and not to operating expenses.

Harry Polglass, for Complainants.

Gibson, Dunn & Crutcher, by *S. M. Haskins*, for Defendant.

LOVELAND, Commissioner.

OPINION.

This is a complaint of some thirty (30) water consumers in the city of Redondo, who are dissatisfied with certain practices of Redondo Water Company. They allege that (a) Redondo Water Company is charging excessive rates; (b) that the minimum monthly charge is too high; (c) that several minimum charges are sometimes made with but one service installed; (d) that no regular date for reading meters has been established; (e) that no credit is given consumers who fail to use the quantity of water permitted under the minimum charge, and (f) that there is no rate established for vacant premises. Complainants ask relief in all these particulars, especially praying for relief in rates and from the multiple minimum charges assessed to premises supporting more than one building.

In the answer to the complaint, defendant company admits certain of the allegations but denies that the rates are excessive or even yield a reasonable profit on the fair valuation of the defendant's property. Defendant asks for an increase in rates.

General metering of the system and consequent changes from flat rates to meter schedule has precipitated this complaint. In several instances this change has caused an increase in water bills, especially among those consumers who have more than one occupied structure upon their premises.

There were two hearings in this matter, one at Redondo on October 16, 1916, and the second in Los Angeles on November 11, 1916.

This commission, under a former proceeding entitled "Application of the city of Redondo for an order fixing the value of certain property of the Redondo Water Company, a public utility corporation" (Opinions and Orders of California Railroad Commission, Volume 6, pages 260 and 435), caused an investigation to be made of the property of the Redondo Water Company and this commission's hydraulic engineers reported upon the estimated reasonable cost new of the prop-

erties of Redondo Water Company as of date January 1, 1915, as follows:

Real estate	\$9,225 00
Buildings	6,793 00
Wells	7,337 00
Pump pits	6,268 00
Tunnel	1,399 00
Motors	2,034 00
Pumps	12,145 00
Reservoir	9,275 00
Weir box	421 00
Paving cut to lay mains	836 00
Distribution system	92,629 00
Services	8,849 00
Sprinkling standards	1,916 00
Meters	1,808 00
Organization expense	515 00
Material on hand	1,986 00
Operating equipment	1,873 00
Office equipment	1,500 00
	<hr/>
	\$166,649 00

Since the date of the above appraisal, the water system has been metered, there have been additions to the pipe system and the reservoir has been reinforced with steel and concrete. The total additions to capital aggregate \$20,039.00 as shown by page 3 of Exhibit No. 1 filed by this commission's engineers. This sum, however, includes \$1,486.00 for material and supplies already allowed in former inventory. We find that the following deductions should be made:

Prospective well sites.....	\$1,820 00	Not used and useful.
Prospective reservoir site.....	2,225 00	Not used and useful.
Portion of Clifton Heights pipe.....	4,889 00	Overbuilt.
Pipe removed.....	894 00	Withdrawals.
Duplication on material account.....	1,486 00	
	<hr/>	
Total	\$11,314 00	

The net addition to capital is, therefore, the difference between \$20,039.00 and the deductions above listed, or \$8,725.00.

Previously reported	\$166,649 00
Net additions	8,725 00
	<hr/>

Commission's engineer's suggested base for net return... \$175,374 00

The company, through its engineer, E. R. Bowen, presented an exhibit explaining development cost of \$19,056.00 asked in addition to above. This amount was computed by considering the losses as shown by yearly statements of the company. Should this item be included, the gross total would be \$194,430.00, since there was practically an agreement between the engineers as to the other items of the appraisal.

However, the history of this utility shows it to have been started as an aid to the sale of Redondo property and to allow for losses incurred in the utility business while lots were being marketed would be placing an unjust burden upon present consumers. We can not allow this item.

Allowance must be made in rates to provide funds for the renewal of parts of the water system, as they become worn out through use or are discarded due to obsolescence. There are two general methods of estimating the annual allowance to provide for those expenses. One is known as the "Sinking Fund Method," whereby a certain sum is set aside each year and bears compound interest thereafter, until at the expiration of the term of anticipated useful life of the item, there is a total sufficient to reimburse the utility for the expenditure made for that item.

The other method is known as the "Straight Line Method," and provides for the retirement of capital at a uniform rate each year, the original investment being returned to the utility at the expiration of the estimated useful life. When the former method of computing depreciation allowance is used, interest annually on full investment is generally allowed. With the latter, interest is allowed upon the residual value of the system as determined by deducting accrued depreciation payments from estimated cost new. These two methods are in themselves radically different but in fact result in practically the same return on a growing system. I will recommend in this case that the sinking fund method be adopted.

Analysis of the proper amount to be set aside annually to retire the depreciable property has been computed by this commission's engineers at \$2,347.44. This sum includes a liberal allowance for the retirement of the operating equipment such as automobile, etc.

One of the assistant auditors of this commission made a thorough examination of the books of Redondo Water Company, and presented as Railroad Commission's Exhibit No. 2, a report upon this investigation. The commission's engineers presented an exhibit known as commission's Exhibit No. 3, showing a comparison between (1) the actual expenses charged to the various accounts during 1915, (2) the estimates made by the company's engineer for the coming year and (3) schedule which commission's engineers recommended. It will be noticed from this exhibit that the expenses of Redondo Water Company for the year 1915 have generally been accepted as reasonable. Deductions have been made in the allowance for power on account of the installation of meters. The saving in pumped water has been almost 66 per cent of former pumpage. The installation of meters will add to the operating expenses, however, for the next year.

Defendant company presented an exhibit tabulating the pay roll on maintenance and operation for the last three years as follows:

1914 -----	\$8,097 09
1915 -----	7,996 08
1916 (based on 9 months) -----	8,237 96
	<hr/>
	\$24,331 13
	<hr/>
Average -----	\$8,110 38

Defendant contended that the average labor cost should be allowed in fixing rates. An analysis of the data on this subject shows \$8,620.00 asked by defendant's engineer, while \$7,448.48 is shown as the actual labor cost in 1915 taken from an earlier exhibit. There has evidently been some duplication in the segregation of some of the accounts. We shall use \$7,448.48.

The automobile expense was found by the commission's engineers to have been segregated on the company's books to various operating and construction accounts. Depreciation upon the automobile is provided for in the annuity heretofore mentioned. It will be necessary to remove an item of \$600.00 from the company's engineer's estimate of operation expense for automobile. The insurance on employees has likewise been eliminated because of duplication in accounts.

Several extraordinary expenses occurred during 1915, part of which expense should be amortized over several years. Such an item as the reservoir repair, denominated by the company an extraordinary expense, seems properly added, as has been done, to capital account. The other items appear reasonable.

The gross amounts estimated by the company's engineer and the commission's engineers as sufficient to pay maintenance and operation expense were:

Estimate by company's engineer -----	\$15,182 00
Estimate by commission's engineer -----	12,875 35
Actual expense 1915 -----	16,082 42

The main differences between this commission's engineers' estimate and the company's engineer's estimate is:

Deduction in allowable extraordinary expense -----	\$300 00
Duplication of auto expense -----	600 00
Duplication of insurance -----	150 00
Excess labor allowed by company's engineer over 1915 labor items shown in exhibit "A-1" -----	1,171 00
	<hr/>
	\$2,220 00

Counsel for complainants criticised the expenses as shown by the company for 1915, but although permitted to file with the commission his estimate of a proper allowance for operating the plant, no estimate

was made and we infer that he has left his case in the hands of this commission. Counsel, however, did protest, in a closing brief, against the multiple minimum charges assessed against property upon which there is more than one dwelling.

The matter of the charge made by water utilities in cases where more than one house is supplied through the same service has been before this commission in several formal cases and in many informal controversies. See *Freeman vs. Irwin Heights Water Company*, Vol. 7, Opinions and Orders of the Railroad Commission of the State of California, 418; *Strickler vs. City Water Company of Ocean Park*, Opinions and Orders of the Railroad Commission of the State of California, 423, and Decision No. 3599, Case 908, Belvedere Water Company, rates and service rendered August 26, 1916.

In Redondo we find a group of ten bungalows furnished with water through one service and meter. These bungalows are all under one ownership and the company has been making a minimum charge for at least six occupied houses.

The reduction of returns to the utility, if the rule is adopted of making but one charge for each service installed, has been computed by the commission's engineers from Exhibit "E" filed by the company. It is therein found that there would have been \$203.00 less revenue collected during five summer months of 1916 if the multiple minima had not been demanded. Admittedly these premises have their business at a maximum in the summer, with little, if any, in winter. The commission's engineers estimate that there would not be over \$300.00 reduction annually in the revenue if the multiple minima were not insisted upon by the company.

If the rates as outlined herein are sufficient to return to the utility the sum which we find necessary to be received, the number of users upon a service will not be relevant inasmuch as the use of water will be the basis of the revenue collected. The meter rates herein established presuppose only one minimum meter charge for each service connection with the utility's mains.

It is necessary to provide the revenue of the company from metered services, inasmuch as there are but few flat rates remaining in effect.

One difficulty to be met is that there are but four months records of use in Redondo under the meter system. It was necessary to use data of comparable communities. The company's engineer took Santa Monica as typical and the commission's engineers examined the records of use at Hermosa Beach immediately adjoining Redondo on the north. From charts supplied by the engineers, it was shown that the four months water use at Redondo exceeded the yearly averages of Santa Monica or of Hermosa Beach, and that use in Santa Monica was more

liberal than at Hermosa Beach. The estimate of use applied in establishing the rate herein recognizes as many of the features of all the estimates as can properly be adopted.

I find that the defendant utility is entitled to receive in rates the following revenue:

M. and O. expense as per exhibit.....	\$12,875 35
Annuity	2,347 44
Seven per cent interest on \$175,374.00.....	12,276 18
	<hr/>
	\$27,498 97
Revenues as per year 1915.....	23,101 43
	<hr/>
Necessary increase.....	\$4,397 54

To return this necessary revenue, I find the following schedule of rates just and reasonable to be collected by Redondo Water Company for water delivered to consumers.

For water used up to 300 cubic feet.....	33½ cents per 100 cu. ft.
Between 300 cubic feet and 1,000 cubic feet.....	20 cents per 100 cu. ft.
Between 1,000 cubic feet and 2,000 cubic feet.....	17½ cents per 100 cu. ft.
For use in excess of 2,000 cubic feet.....	15 cents per 100 cu. ft.

Service ½-inch diameter or less	\$1 00 monthly minimum
Service ¾-inch diameter	1 50 monthly minimum
Service 1-inch diameter	2 00 monthly minimum
Service 1½-inch diameter	2 50 monthly minimum
Service 2-inch diameter or larger	3 00 monthly minimum

Tent City in block 216, \$60.00 per season, as previously collected for the service rendered to this variable community.

Municipal Rates—

15 cents per 100 cubic feet for public use including sprinkling charges, and flushing sewers and streets.

\$2,000.00 per year for fire protection, including water used for fires, said payment to be for not more than 70 fire hydrants.

\$1.50 per month for each additional fire hydrant over 70.

Other flat rates as heretofore in effect.

The meter rates heretofore in effect have been \$1.50 monthly minimum and 17½ cents per 100 cubic feet for water up to 2,000 cubic feet, with excess at 10 cents.

ORDER.

P. J. Murry et al., having made complaint against Redondo Water Company, alleging unjust practices of said utility, and a hearing having been held and being fully apprised in the premises, it is hereby found as a fact by the California Railroad Commission that the rates heretofore collected by Redondo Water Company, in so far as they differ from the rates hereinafter set out in this order, are unjust and unreasonable and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order upon the foregoing finding of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the California Railroad Commission that Redondo Water Company is authorized to file with this commission the following schedule of rates, said rates to become effective on and after February 1, 1917:

For water used up to 300 cubic feet.....	33½ cents per 100 cu. ft.
Between 300 cubic feet and 1,000 cubic feet.....	20 cents per 100 cu. ft.
Between 1,000 cubic feet and 2,000 cubic feet.....	17½ cents per 100 cu. ft.
For use in excess of 2,000 cubic feet.....	15 cents per 100 cu. ft.
Each service ¼-inch diameter or less	\$1 00 monthly minimum
Each service ½-inch diameter	1 50 monthly minimum
Each service 1-inch diameter	2 00 monthly minimum
Each service 1½-inch diameter	2 50 monthly minimum
Each service 2-inch diameter	3 00 monthly minimum
Services to be installed upon application of consumers.	
Tent City in block 216, \$60.00 per season.	

Municipal Rates—

15 cents per 100 cubic feet for public use including sprinkling charges, and flushing sewers and streets.

\$2,000.00 per year for fire protection, including water used for fires, said payment to be for not more than 70 fire hydrants.

\$1.50 per month for each additional fire hydrant over 70.

Other flat rates as heretofore in effect.

It is hereby further ordered that the complaint shall be dismissed in all respects not specifically provided for in this opinion and order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 11th day of January, 1917.

DECISION No. 4003.

CALIFORNIA PACKING CORPORATION

vs.

SOUTHERN PACIFIC COMPANY, AND ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case 1025.

Decided January 11, 1917.

Petition that the commission compel defendants to make reparation to complainant in the aggregate sum of \$9,512.29 covering shipments which moved during the period June 27, 1908, to March 1, 1916, upon which a rate was charged in excess of rates at the same time in effect to more distant points.

Held. 1. The statute of limitations bars all claims for reparation on shipments moving prior to October 10, 1911, and section 71 (b) of the Public Utilities Act bars claims on shipments which moved two years prior to the filing of the complaint. Accordingly, the only claims still alive are those which moved on or after December 5, 1914.

2. The commission, after investigation, found that there was justification for continued relief from the long and short haul provisions and entered its orders accordingly, which orders provided that carriers need not make application to charge higher rates to intermediate points, but should apply for permission to charge a less rate to the further distant point.

3. The commission, in connection with orders entered June 19, 1916, definitely determined the extent to which carriers might discriminate against intermediate points. In granting permission for such deviations, the commission is not required to determine the reasonableness of the rate to intermediate points but merely grant permission to charge a less rate to the more distant point.

4. Such authorizations on the part of the commission are merely permissive, should the rates therein established subsequently be found to be exorbitant or unreasonable, they are subject to complaint and readjustment the same as any other rates of common carriers. Such orders are not permanent but merely permit the continuation, from time to time, of such deviations as conditions warrant.

5. The commission, after investigations, has permitted carriers to continue in effect the rates under which shipments of complainants moved. Complaint dismissed.

L. S. Beedy, for Complainant.

C. W. Durbrow, for Southern Pacific Company.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Co.

LOVELAND, Commissioner.

OPINION.

This is an action brought by the California Packing Corporation, organized under the laws of the state of New York, wherein reparation is demanded in the sum of \$8,202.65 against the Southern Pacific Company account charges paid on shipments moved between June 27, 1908, and March 1, 1916; also in the sum of \$1,309.64 against The Atchison, Topeka & Santa Fe Railway Company account shipments moved May 12, 1909, to March 1, 1916, both dates inclusive, as per exhibits A, B, C and D attached to and made part of the complaint.

The complainant contends that the rates as assessed and collected, which include class and commodity rates, covering consignments which moved to and from points in the San Joaquin Valley, were in excess of the rates in effect between San Francisco and Los Angeles, and, therefore, that the higher rates collected were in violation of section 21, Article XII of the constitution of the State of California prior to and subsequent to the date of its amendment, October 10, 1911, and were unlawful. Complainant's testimony was not controverted and was to the effect that the alleged unlawful charges had all been paid, as evidenced by the original paid freight bills introduced as exhibits.

The complainant rests on the allegation that defendant carriers were not authorized by the Railroad Commission of the State of California to charge less for the transportation of shipments of the character specified for a longer distance than for a shorter distance and submitted the case without argument, filing as an exhibit a copy of the decision of the United States Circuit Court of Appeals in Case No. 2643, *Southern Pacific Company* (plaintiff in error) vs. *California Adjustment Company* (defendant in error).

Defendants introduced in evidence twelve exhibits, same being certified copies of orders and resolutions adopted by this commission, and it was also stipulated (Transcript, page 12) that the minutes of the meetings of the commission (Transcript, page 15) and such tariffs on file with the commission relevant to the case would be considered.

The shipments in question moved during two distinct periods of time; those moving prior to October 10, 1911, the date the constitutional amendment became effective, and those moving subsequent thereto.

I do not consider it necessary to pass upon the status of any of the claims covering shipments which moved before October 10, 1911, for the reason that all are barred by the statute of limitations. As to the other shipments, moving subsequent to October 10, 1911, all are barred by section 71 (b) of the Public Utilities Act, except those moving within two years prior to the filing of these complaints, December 5, 1916, which would keep alive only such claims involving shipments moved on or after December 5, 1914.

Section 71 (b) of the Public Utilities Act, effective March 23, 1912, reads in part as follows:

“All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues.”

It is, therefore, only necessary to determine whether the complainant is entitled to reparation on any of the shipments which moved on and after December 5, 1914. Both sections 21 and 22 of Article XII of the constitution were amended October 10, 1911. The long and short haul clause in section 21 was continued in effect and the express provision made therein for application by the carriers to the Railroad Commission for permission to deviate therefrom whenever the commission, after investigation, authorized the carriers

“to charge less for longer than for shorter distances for the transportation of persons or property.”

It further provided that:

“The Railroad Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than the shorter haul.”

By section 22 of Article XII of the state constitution, the commission was enlarged and was again vested with power to establish transportation charges and the Legislature was vested with full power to confer

“upon the Railroad Commission additional powers of the same kind, or different from those conferred herein which are not inconsistent with the powers conferred upon the Railroad Commission in this constitution * * * .”

Section 22, Article XII, further provided:

“The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and the ‘Railroad Commission Act’ of this state, approved February 10, 1911, shall be construed with reference to this constitutional provision and any other constitutional provision becoming operative concurrently herewith. And the said act shall have the same force and effect as if the same had been passed after the adoption of this provision of the constitution and of all other provisions adopted concurrently herewith * * * .”

At the time the constitutional amendment became effective there was under consideration by the Railroad Commission the San Joaquin Valley Rate Case No. 116, involving all class rates between Los Angeles and San Francisco and all intermediate points via San Joaquin Valley routes, both as to their absolute and relative reasonableness, and in determining the questions raised in that proceeding it became necessary for the commission to make an investigation of the competition of ocean carriers between San Francisco and Los Angeles and the effect of such competition upon the rates involved in the entire territory now under consideration; this investigation necessarily involving the consideration of the provisions of sections 21 and 22 of Article XII of the state constitution.

The evidence introduced by defendants shows that immediately following the adoption of the constitutional amendment, the traffic officials of the defendants and other carriers, appeared before the commission and requested a formal order of the commission relieving the carriers from the violations of the long and short haul clause in cases where actual competition had brought about deviations from the constitutional provisions. These preliminary applications were made between October 15 and 20, 1911.

The record shows that the commission made many investigations, the applications being handled principally by Mr. Commissioner Eshleman and myself and that we were in frequent conferences with reference to these matters.

It was as the result of these investigations, made immediately after and prior to the adoption of the constitutional amendment, that the

commission reached the conclusion that there was justification for continued relief from the provisions of the amended constitution and entered its orders, found in the record, granting the carriers relief.

The commission's interpretation of the amended section is that the carriers are not required to make application for permission to charge *higher* rates to the intermediate points than to the further distant points, but that they are required to make application for permission to charge a *less* rate to the further distant point than to the intermediate point, and after the investigations made in October, November and December, 1911, and January and February, 1912, it permitted the carriers to continue such deviations.

In reaching these conclusions full consideration was given not only to the rights of the carriers, but to the interests of the shippers, for it was apparent that to deny the applications would have resulted in carriers attempting to raise rates applying between the competitive points, which would have deprived the shippers of the convenience of shipping by rail and diverted the traffic to the ocean competitors and that this adjustment would not have resulted in any lower rates to the intermediate points.

Carriers were required, by order of October 26, 1911, to present a complete list of the deviations and to justify such deviations in order that the commission might, in future investigations

“from time to time prescribe the *extent* to which such companies might be relieved from the prohibition to charge *less* for the longer than for the shorter haul.”

This was the object sought to be accomplished by the commission, and that its orders received the interpretation which I have placed upon them is shown by the statements made by Mr. Commissioner Eshleman, who presided at the first formal hearings.

Case 214.

January 2, 1912; Transcript, page 16.

“MR. BRADLEY: Just one more question. Do I understand now that in the meantime, until this investigation proceeds, the present adjustment continues and the commission grants a temporary order?”

COMMISSIONER ESHLEMAN: Necessarily so, Mr. Bradley—no other possible course open to us.

February 15, 1912; Transcript, page 11.

MR. ANEWALT: We think we have but still would not like to be caught in the position of having failed to either ask for relief, or to protect ourselves, or to put ourselves in good standing with the commission.

COMMISSIONER ESHLEMAN: As long as the commission is assured of the good faith of any carrier, it will not take advantage of its mistakes. That certainly is our attitude.

February 15, 1912; Transcript, page 19.

COMMISSIONER ESHLEMAN: There can be no question in my mind as to that, as to the justification of those violations during the pendency of this order. I feel that absolutely."

By referring to the order of November 20, 1911, all question as to the intention to grant these defendants the relief for which they had applied, and that investigation justified such action, is set at rest. The title of the order reads:

"Permission to carriers to continue present rate bases and adjustment of rates pending hearing on application for relief from provisions of section 21, Article XII, of the constitution."

The order expressly recited that:

"Permission is hereby granted to railroads and other transportation companies *until January 4, 1912*, to file for establishment with the commission in the manner prescribed by law and in accordance with the commission's regulations, such changes in rates and fares as would occur in the ordinary course of their business, *continuing under the present rate bases or adjustments*, higher rates or fares at intermediate points; provided, that in so doing the discrimination against intermediate points is not made greater than that in existence October 10, 1911."

This order authorized carriers, until January 4, 1912, to deviate from the provisions of the amended section, provided that they did not increase the discrimination against the intermediate points, principally for the reason that there was under consideration at the time the establishment of rates as reasonable *per se* at the intermediate points, and to further investigate the reasonableness of such rates before entering a final order in which the extent of the discrimination should be determined; that is, the commission wished the carriers to understand that it intended to determine the extent of the discrimination which they recognized as justifiable at the time the order was entered.

The investigations as to the *extent* the carriers might discriminate against the intermediate points were not concluded until after many formal and informal hearings had been held which resulted in the final orders June 19, 1916, Decision Nos. 3436, 3437, 3440 and 3441. These orders definitely determined the extent to which the carriers might discriminate against the intermediate points, and it was the intention, expressed in the many orders to which I have referred, to permit the carriers to deviate from the provisions of the long and short haul clause to the extent indicated by the commission in such orders.

The decision of the United States Circuit Court of Appeals in Case No. 2642, *Southern Pacific Company vs. California Adjustment Company*, *supra*, which decision, of course, was based upon evidence before

that court and upon which counsel for complainant relies, is in conflict with this commission's decisions and orders. The record is not before me and I am unable to determine just what facts were presented to the court, but it seems apparent that all the pertinent evidence presented in this proceeding was not presented to the federal court.

The constitution does not require the commission to definitely determine the reasonableness *per se* of the rates to the intermediate points in granting applications for permission to charge a *less rate* to a further distant point. The commission merely acted within the power granted by the constitution and permitted the carriers to charge *less* to the further distant point than they were at the time charging to the intermediate point.

The Supreme Court of the United States, in the case of *United States of America et al. vs. Merchants & Manufacturers Traffic Association of Sacramento*, No. 452, October term, 1916, decided December 4, 1916, and not yet reported, held, in construing the fourth section of the Interstate Commerce Act:

"The orders here in controversy were confessedly based upon applications made by the carriers."

The court further held that if the commission were empowered only to either grant or deny *in toto* the precise relief applied for it would make the long and short haul clause of the federal act unworkable and defeat its purpose and that such a construction

"is at variance with the broad discretion vested in the commission and the prevailing practice of administrative bodies. It fails to give effect to the provision that the commission may from time to time prescribe the extent to which such designated common carriers may be relieved from the operation of this section."

The court held that in granting such relief the order of the commission "is permissive merely" that the carrier is the only necessary party to the proceeding; that the commission represents the public and that if the rates shown in the tariffs filed under the authority granted by the commission are believed to be unreasonable by shippers, or unjustly discriminatory, the shipper is afforded an ample remedy by a direct appeal to the commission.

The same rules are applicable to the provisions of our constitution. The constitution and the statute have not undertaken to circumscribe the commission's power in determining the form in which applications shall be made; have not undertaken to determine whether they shall be formal or informal, written or oral, what investigation shall be had, or whether the order granting an application must be made final, but, on the contrary, have expressly provided that the commission may "from time to time" prescribe the *extent* to which carriers may be

relieved from the provisions of the long and short haul clause, which is precisely what has been done with respect to these rates.

The decision of the Supreme Court of the United States is in accord with the decision of this commission rendered in the *Scott, Magner & Miller* case, Vol. 2 Opinions and Orders of the Railroad Commission of California, p. 636, wherein it was held that:

“If the shipper were dissatisfied (with the relief granted to a carrier, or if he believed the rates to the intermediate points to be unduly high, or the discrimination caused by our order granting relief to be unjustifiable) he could apply to the Railroad Commission to alter the rate * * * .”

It is apparent that the constitution does not contemplate that any permanent order shall be entered, but, on the contrary, expressly provides the continuing power to modify orders “from time to time” and “the extent” to which the carriers may be relieved.

The several orders herein referred to were the result of separate investigations and, in the light of these investigations, the commission undertook to modify previous orders, just as it may now, upon further investigation, modify the latest orders, entered June 19, 1916.

The same principles involved in this case were considered by this commission in the following cases:

Case No. 283, *Scott, Magner & Miller et al. vs. Western Pacific Railway Company*, Vol. 2, Opinions and Orders of the Railroad Commission of California, 626-628.

Case No. 376, *W. C. Penoyer et al. vs. Southern Pacific Company*, Vol. 3, Opinions and Orders of the Railroad Commission of California, 576-579.

Case No. 762, *Phoenix Milling Company vs. Southern Pacific Company*, Vol. 7, Opinions and Orders of the Railroad Commission of California, 677-682.

Case No. 878, *Fresno Traffic Association vs. Southern Pacific Company*, Vol. 8, Opinions and Orders of the Railroad Commission of California, 390.

In the latter case, decided November 8, 1915, it was held:

“As this commission has, after investigation, authorized the carriers, pending the further order of the commission, to continue the deviations from the long and short haul clause herein involved, and as the question of the violations of the long and short haul clause is the sole basis for the claim of reparation herein, the complaint should be dismissed.”

I hold that by our constitution this commission has been vested with power equally as broad and comprehensive as the power vested in the

Interstate Commerce Commission by the amended fourth section to prescribe the extent, from time to time, that carriers may be relieved from the long and short haul clause, as was decided by the Supreme Court of the United States in the case of *United States vs. Merchants &*

Manufacturers Traffic Association of Sacramento, supra.

The findings may be summarized as follows:

1. That the commission, after application by the carriers, and investigation, granted carriers permission October 26, 1911, to continue the lower charges at more distant points, thereby establishing such rates as required by the Stetson-Eshleman Act, and that its orders of November 20, 1911, January 19, 1912, and February 15, 1912, confirmed, among other things, the permission theretofore granted the carriers to charge less for the long than the short haul in all the cases mentioned in the complaint.

2. That subsequent hearings and investigations have been held for the purpose of investigating the intrinsic reasonableness of higher rates at intermediate points, but that these investigations did not affect the right of the carrier to charge less for the long haul under the permissions theretofore granted.

Regardless of what the courts may finally hold as to the sufficiency of the investigations made by the commission and of the order relieving carriers from the long and short haul prohibitions of the constitution and the Public Utilities Act, in my judgment there can be no question as to the carriers having been granted such relief by the investigations of the commission leading up to the hearings in the San Joaquin Valley Rate Case, No. 116, decided March 28, 1912, Vol. 1, Opinions and Orders of the Railroad Commission of California, page 95, wherein the class rates between San Francisco and Los Angeles were positively and definitely determined.

It follows that the complaint should be dismissed, and I therefore submit the following form of order:

ORDER.

The above entitled case having come on regularly for hearing and the commission being duly apprised in the premises,

It is hereby ordered that the complaint in the above entitled case be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1917.

DECISION No. 4004.
PLUMAS LIGHT AND POWER COMPANY
vs.
GREAT WESTERN POWER COMPANY.
Case No. 1017.

IN THE MATTER OF THE APPLICATION OF THE GREAT WESTERN POWER COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF CERTAIN RIGHTS UNDER A FRANCHISE GRANTED BY THE COUNTY OF PLUMAS, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF A CERTAIN ELECTRIC POWER LINE IN SAID COUNTY OF PLUMAS.

Application No. 2634.

Decided January 11, 1917.

The Plumas company's allegation that the Great Western Power Company is invading their territory by serving a certain large consumer can not be sustained, as the present demand of the consumer in question is approximately ten times the entire demand of the Plumas company, and it will be increased within several years to fifty times the present demand. Accordingly, such a consumer is entirely out of the class of consumers served by the Plumas company which latter company is in no position at the present time to increase its capacity to such an extent as to render efficient service to its present consumers in addition to the demand occasioned by the consumer which it proposes serving. Complaint dismissed.

Great Western Power Company granted a certificate declaring that public convenience and necessity require the exercise of franchise rights permitting the construction of a transmission line to serve the Philadelphia Exploration Company's mine at Crescent Mills, provided that no value shall ever be claimed for such franchise in excess of the actual original cost thereof.

Curtis Hillyer, for Plumas Light and Power Company.
Guy C. Earl and Chaffee Hall, for Great Western Power Company.

DEVLIN, *Commissioner*.

OPINION.

In Case No. 1017, The Plumas Light and Power Company, hereafter called the Plumas company filed its complaint on October 3, 1916, alleging in effect that it is engaged in supplying the town of Crescent Mills with electric energy, that Great Western Power Company, defendant, intends to construct a line to serve Crescent Mills and some other customers who would otherwise be customers of complainant, and that defendant has never obtained a certificate of present or future public convenience or necessity to serve Crescent Mills. Complainant requests that Great Western Power Company be enjoined from constructing this line.

Great Western Power Company admits the general allegations of the complainant but denies that it is about to interfere with the system

of complainant by serving customers who would otherwise be customers of complainant.

On November 16, 1915, Great Western Power Company filed its application No. 2634, stating that subsequent to the issuance of a preliminary certificate of public convenience and necessity in Application No. 1767, Decision No. 2652, to construct a line to the Engels mine, it obtained from the county of Plumas a franchise by Ordinance No. 182 of the county of Plumas, that now it desires to construct a three-phase 22,000-volt line from its present line between Big Meadows and the Engels Copper Company's mine, a distance of $4\frac{1}{2}$ miles to Crescent Mills in order to supply electric energy to the Philadelphia Exploration Company, which is developing a mine at Crescent Mills. Great Western Power Company believes that Plumas company is unable, by reason of insufficient facilities, to serve the Mining company at a price or rate as low as that offered by the applicant. It therefore requests that it be granted a certificate of public convenience and necessity to construct said line to the Philadelphia Exploration Company's mine and to exercise the said franchise heretofore granted to it, in so far as it may be necessary to enable applicant to construct, maintain and operate this transmission line previously constructed from Big Meadows to the Engels Copper Company's mine and to be constructed to the Philadelphia Exploration Company's property.

Both matters were heard on December 5, 1916, and as they pertained to the same subject they were by stipulation consolidated for hearing and decision.

It appears from the testimony introduced by the Great Western Power Company through Mr. A. C. Burch, resident manager of the Philadelphia Exploration Company, that the latter company has obtained a $2\frac{1}{2}$ year option commencing September 29, 1916, to purchase a mine at Crescent Mills. Under this option the equipment for unwatering the mine must be installed in seven months and the option exercised within $2\frac{1}{2}$ years. The company has expended about \$25,000.00 in the purchase of equipment and its installation and expects to spend an additional \$75,000.00 in opening up the mine and determining whether it will purchase the same. If the company decides to purchase the mine it will pay \$200,000.00 for the mining property and the additional installations for mining operations will amount to approximately \$150,000.00. The company has 150-horsepower of motors on the ground and 165 additional horsepower at present ordered to be delivered within the next four months. The ultimate development is estimated from 1,000 to 1,400 horsepower.

Mr. Burch made no application to the Plumas company for power and the testimony of Mr. W. W. Briggs, general agent of the Great Western Power Company, shows that the negotiations between these

two men, representing the mine and the power company were carried on and contracts entered into for supplying power and the construction of the necessary lines. The Plumas company was asked to waive its rights to serve the mine, but that company refused.

The testimony further shows that the Great Western Power Company has an 800 kilowatt hydroelectric plant at Butte Valley and a 22 kilovolt transmission line from there to the Engels Copper Company's mine, a distance of 38 miles. Service is rendered to the Plumas company through a substation near Greenville, which consists of three 25 kilowatt 22,000 to 2,200 volt transformers. To serve the mine at Crescent Mills directly by the Great Western Power Company will require an extension of $4\frac{1}{2}$ miles across the Indian Valley. The Engels mine is requiring the full capacity of the Butte Valley plant at the present time and the Great Western Power Company has been requested to supply 1500 horsepower additional by April 1, 1917. The Plumas Light and Power Company's demand on the Great Western Power Company had in the past approximated 15.5 kilowatts. The contract between the Great Western Power Company the Plumas Company limits the latter's demands to 200 kilowatts, and in addition makes that company's demand secondary to the requirements of the Engels Copper Company. The Great Western Power Company, in order to supply the immediate demands of the Exploration Company's mine has obtained from the Engels Mining Company an informal agreement whereby the latter agrees to diminish, at times, its existing demands, provided, however, that it will not interfere with the operation of the Engels mine.

In view of the increased demand for power in excess of the capacity of the Butte Creek plant, the Great Western Power Company according to the testimony of Mr. Briggs, plans the construction of a high tension transmission line from the Big Bend or Las Plumas power plant, a distance of approximately 51 miles, to the present line near Crescent Mills, and eventually to extend to other mining properties which it is estimated will require approximately 5,000 horsepower in mining load.

Plumas Light and Power Company has no power plant of its own capable of supplying any power load. Its supply is obtained from the Great Western Power Company, as outlined previously. The present line of the Plumas company from Greenville to Crescent Mills is approximately 6.5 miles in length, and is single phase 2,200 volt, the conductors consisting of two No. 4 aluminum wires. The Plumas company proposes to serve the Philadelphia Exploration Company's mine by adding one additional wire to this line and raising the voltage to 4,000 or 6,600 volts, obtaining the supply from the Great Western Power Company. Some evidence was introduced regarding the proposed Round Valley plant of the Plumas company, but, from the fact

that it was practically impossible to obtain equipment for the construction of the plant for a considerable period, it appears reasonable to exclude this from the consideration. The evidence shows that the Plumas company has additional wire to change the present line to three-phase, but has no transformers and there is considerable doubt of its ability to obtain the same in a reasonable length of time.

The contract entered into between the Great Western Power Company and the Exploration company set forth the following rates for power delivered at 440 and 110 volts:

Two cents per kilowatt hour for the first 60 kilowatt hours per month per horsepower of connected load.

One and one-half cents per kilowatt hour for the second 60 kilowatt hours per month per horsepower of connected load.

One and one-quarter cents per kilowatt hour for the third 60 kilowatt hours per month per horsepower of connected load.

One cent per kilowatt hour for all over 180 kilowatt hours per month per horsepower of connected load.

Minimum bill \$200.00 per month plus \$1.00 per month per horsepower installed in addition to 200 horsepower.

An additional contract was entered into between the two companies whereby the Exploration company was to advance to the Great Western Power Company \$8,500.00 as payment for the cost of the line to be constructed, which amount is to be refunded at the rate of 20 per cent of each power bill for a period of two years.

The Plumas Light and Power Company has operated for several years a small hydroelectric plant and distribution system serving the towns of Greenville and Crescent Mills in Plumas County with lighting service. On November 30, 1914, the Plumas company made application to issue bonds for the construction of a 750-horsepower hydroelectric plant, utilizing the waters of Round Valley reservoir near Greenville. This application was denied, however, as it appeared that the title to the water rights was not clear. In July, 1915, the Great Western Power Company applied for a preliminary certificate of public convenience and necessity to extend its line from Big Meadows dam through Indian Valley to the Engels Copper Mining Company's properties to serve that customer only, the mining company having contracted for a minimum of 450 horsepower. It appeared in that instance that the Plumas company was not serving in that territory and was not in a position to supply the requirements, and that in granting the Great Western company permission it would make it possible for that company to utilize the Butte Valley plant, which was at the time not in operation. Upon granting the certificate the line was constructed and since September, 1915, the Great Western Power Company has been supplying the Engels Mine and the demand has increased to approximately 800 kilowatts.

About May, 1916, the Great Western company commenced supplying the Plumas company with power from this line. This service was encouraged by the commission and should be approved. On May 20, 1916, Plumas company applied to the commission to issue bonds or notes in order to make extensions to its system, thus to more completely serve the territory. Fifteen thousand dollars face value of notes were authorized, but the company has had considerable difficulty in selling the same.

In this case the Plumas company has, at the present time, a small distribution system supplying, in general, only lighting service and small power consumers, with a total maximum demand of only 15.5 kilowatts. It has had considerable financial difficulty in obtaining funds for the extension of its business and its lines at present are not of sufficient capacity to supply the immediate demands of the Philadelphia Exploration Company's mine, which will be within the first few months over ten times the present demand of the Plumas company, and if expectations are realized, within two years it will be increased to practically fifty times the present. It would appear, therefore, that this customer does not come in the class of a distribution consumer of the Plumas company as compared with other consumers served by it, and there appears little reason to believe that the local company would be benefited by attempting to handle such a comparatively large consumer, or that the public would be in any way benefited owing to the fact that the company would be burdened with a responsibility beyond its present ability or commensurate with the benefit which would accrue to it through handling this service.

The evidence submitted shows that even with an increase in the voltage of the Plumas company's line from Greenville to Crescent Mills to 6,600 volts, the losses would still amount to approximately 10 per cent, and it would be necessary to spend \$2,000.00 or \$3,000.00 to reconstruct a line, in addition to the installation of an extra set of transformers by either the Plumas company or the Great Western Power Company. These costs would probably not exceed the cost of extending the Great Western company's line to Crescent Mills, but considerable increase in the annual cost would result. In addition to this increased cost, the Plumas company will have to pay an additional $7\frac{1}{2}$ per cent upon the gross revenue to cover state tax and to meet county franchise requirements, which will make the total increased cost over that possible, in case of direct service from the Great Western Power Company, of approximately 17 per cent.

Considering the extent of the Plumas company's present business and its financial condition, in view of the magnitude of the service to be rendered, it does not appear to me that this company or the public will be benefited by requiring that the service be rendered through it instead of directly by the Great Western company. The cost to the mine would

be increased considerably and the Plumas company would be attempting to handle a wholesale consumer beyond its means. The successful and economical supplying of energy to this mine should result in a considerable increase in business activities in and about Crescent Mills, which will reflect indirectly in increased business to the Plumas company which serves lighting and small power business, more commensurate with its present service.

I believe, therefore, for reasons hereinbefore stated, that public convenience and necessity would be best served by allowing the Great Western Power Company to serve directly the Philadelphia Exploration Company's mine.

I submit the following form of order:

ORDER.

Plumas Light and Power Company having filed its complaint against the Great Western Power Company, and the Great Western Power Company having filed its answer to the complaint, and Great Western Power Company having made application under the provisions of section 50 of the Public Utilities Act for a certificate that public convenience and necessity require the exercise by it of rights and privileges under a franchise granted to it by the county of Plumas, in so far as necessary to construct, operate, and maintain a line from Big Meadows dam to the Engels Copper Company mine and to Crescent Mills, and to serve the Philadelphia Exploration Company's mine at Crescent Mills, and said proceedings having been consolidated by stipulation of the respective parties, and a public hearing having been held and the case and application having been submitted and being now ready for decision,

The commission hereby finds as a fact that public convenience and necessity require and will require the construction of said line to Crescent Mills, the exercise of said franchise obtained from the county of Plumas by Ordinance No. 182 in so far as necessary to construct, operate and maintain said lines and to serve the Philadelphia company's mine; and basing its order herein upon the foregoing finding of fact and the findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that the complaint of the Plumas Light and Power Company herein be and the same is hereby dismissed.

It is further ordered and declared:

1. That public convenience and necessity require and will require the exercise by the Great Western Power Company of rights and privileges granted to it by Ordinance No. 182 of the county of Plumas in so far as necessary to construct, operate and maintain its transmission line from Big Meadows dam to the Engels Copper Company's mine and to the Philadelphia Exploration Company's mine at Crescent Mills.

2. That public convenience and necessity require and will require the construction of a line from the present Great Western Power Company's line in Indian Valley to the town of Crescent Mills to serve the Philadelphia Exploration Company's mine.

3. That public convenience and necessity require and will require the serving of power to the Philadelphia Exploration Company's mine by the Great Western Power Company.

Provided, however, that the said Great Western Power Company shall first file with this commission a stipulation to the following effect:

Declaring that Great Western Power Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges granted by said Ordinance No. 182 of said county of Plumas in excess of the actual cost to Great Western Power Company to acquire the said rights and privileges.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1917.

DECISION No. 4005.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY WATER,
LIGHT AND POWER COMPANY FOR AN ORDER PERMITTING IT TO
MORTGAGE ITS PROPERTIES.

Application No. 2313.

Decided January 11, 1917.

Applicant, having a note outstanding secured by \$20,000.00 face value of its bonds, applies for and is granted permission to mortgage its property as security for such note and to retire and cancel its bonds, such mortgage to also cover an amount in the sum of \$1,000.00 due the Neptune Meter Company, provided, that such authorization shall not be construed as giving the above claims any priority over the claims of other creditors of applicant.

D. McClure, of Lilienthal, McKinstry & Raymond, for Applicant.

Theodore Breslauer, for Neptune Meter Company.

Thomas B. Dozier, Jr., for Thomas B. Dozier, Sr., and W. F. Cowan.

Alexander D. Keyes, for George L. Payne.

BY THE COMMISSION.

OPINION.

This is an application by Sonoma Valley Water, Light and Power Company, a corporation, engaged in the business of supplying water to the people of El Verano and vicinity, Sonoma County, and also to a

portion of the population of the city of Sonoma and its vicinity, for authority to mortgage all of its property to George L. Payne.

Public hearings in this proceeding were held at Sonoma on August 19th, and at San Francisco on October 3, 1916, the testimony being taken before Examiner Baneroft.

From the evidence it appears that applicant's capital stock consists of 100,000 shares of the par value of \$1.00 each, all of which are issued and outstanding. Applicant also has an authorized bonded indebtedness of the face value of \$30,000.00, evidenced by 30 bonds of the face value of \$1,000.00 each, bearing interest at the rate of 6 per cent per annum, and maturing July 2, 1944, which bonds are secured by a first mortgage of all of applicant's property.

On October 21, 1914, applicant issued a six months note in favor of Alexander D. Keyes for \$15,000.00, bearing interest at the rate of 8 per cent per annum. Applicant alleges that this note was subsequently transferred by said Alexander D. Keyes to George L. Payne, and that thereafter the principal of said note was reduced by \$5,000.00, leaving a balance of \$10,000.00 still due and owing; that this note was originally secured by pledging the \$30,000.00 face value of applicant's bonds, authority having been granted therefor by order of this commission (Decision No. 1891, reported in Volume 5, Opinions and Orders of the Railroad Commission of California, page 636); that upon the reduction of said note to \$10,000.00, ten of said bonds were returned to applicant, leaving twenty of said bonds pledged as security for the remaining \$10,000.00 still due. Applicant has never paid any dividends upon its capital stock, and it is now unable to pay its note, which is more than a year and a half overdue.

In its application, as originally filed, Sonoma Valley Water, Light and Power Company asked for authority to mortgage its property to George L. Payne in exchange for said Payne's returning to applicant the twenty first-mortgage bonds now held by him; applicant would then have had in its possession the entire authorized bond issue, and it was its intention to have all of the bond issue and the mortgage or deed of trust securing the same canceled. Three of applicant's unsecured creditors, however, protested against the new mortgage upon the ground that they had claims against applicant which ought to share equally with that of Mr. Payne. One of these claims is that of the Neptune Meter Company of \$1,000.00 for meters furnished applicant, while the other two are those of Mr. T. B. Dozier, Sr., and Mr. W. F. Cowan for services rendered applicant and expenses incurred as attorneys' fees prior to the issuance of the note to Mr. Payne. These attorneys' fees and costs amounted altogether to \$2,033.75, the charges having, according to the testimony, been assented to by applicant.

Before the second hearing, Mr. Payne had consented to allow the claim of Neptune Meter Company (which, together with interest, amounts to approximately \$1,000.00) to be placed on a parity with his own, and to be secured by the new mortgage asked for in this application. Accordingly applicant, at the second hearing, asked for, and received, permisison to amend its application. Mr. Payne would not consent, however, to waive his apparent priority in favor of the claimants for attorney's fees. Mr. Dozier accordingly protested most earnestly against the substitution of the new mortgage for the present mortgage securing the bond issue, on the ground that it might in some manner prejudice his rights. Mr. Dozier introduced testimony as to the value of the services he had rendered applicant, and if it were within our province to pass upon the justness of his claims, we should have no hesitancy in finding that he is entitled to very substantial compensation for the services he has rendered. We do not, however, feel that we have a right to insist upon a secured creditor waiving his priority in favor of unsecured creditors, no matter how just the latter's claims may be, and we do not see how Mr. Dozier or Mr. Cowan can be injured by our permitting applicant to cancel outstanding pledged bonds of the face value of \$20,000.00 for a straight mortgage securing a note for \$10,000.00 and interest. Accordingly, if the application had remained in its original form we should have unhesitatingly felt that in granting it, we could, in no possible manner, be prejudicing any of Mr. Dozier's rights.

The question then resolves itself into whether, by allowing the Neptune Meter Company to participate in the benefits of this mortgage, we are giving the claim of the Neptune Meter Company an improper priority over the claims of Messrs. Dozier and Cowan. Without passing upon the question of whether or not the claim of Neptune Meter Company is entitled to any priority over these other claims, we are of the opinion that the application, as amended, should be granted.

There is no question in our minds but that it will be of advantage to applicant to have a mortgage securing the amount of the Neptune Meter Company's claim and the \$10,000.00 note and interest substituted for the \$20,000.00 face value of bonds now held by George L. Payne and the unsecured claim of Neptune Meter Company, and we believe that the determination of whether or not the execution of such a mortgage would give Neptune Meter Company a priority over the claims of Messrs. Dozier and Cowan, to which the Neptune Meter Company is not entitled, is a matter exclusively within the jurisdiction of the courts and it is not our intention to pass upon this matter or in any way to prejudice the rights of any of the unsecured creditors by this decision.

We have before us in this proceeding a request from this applicant for authority to execute a mortgage of its properties to secure two of its creditors. This commission can not determine the priority of these creditors. We would be willing to authorize applicant to execute a mortgage to secure any or all of its creditors under such reasonable arrangements as they might mutually agree upon. If the parties in interest could reach some understanding for securing all the claims against applicant under a mortgage, and if the company should then file a new application according to such understanding, this would, in our opinion, be the best possible solution of the problem. In this particular matter, however, we have a definite application which we are prepared to grant.

ORDER.

Sonoma Valley Water, Light and Power Company having, by its amended application, requested authority to mortgage all of its properties, hereinafter more particularly described, to George L. Payne in consideration of the return to applicant of the twenty first-mortgage bonds of applicant now in the possession of George L. Payne, as security for the promissory note referred to in the foregoing opinion and the claim of Neptune Meter Company for \$1,000.00, and a public hearing having been held, and it appearing to this commission for the reasons set forth in the foregoing opinion that the application, as amended, should be granted,

It is hereby ordered that Sonoma Valley Water, Light and Power Company be and the same is hereby authorized to execute a mortgage to George L. Payne for the purpose of securing the balance due, including interest, upon the note of Sonoma Valley Water, Light and Power Company, originally issued to Alexander D. Keyes, upon the principal of which \$10,000.00 is due, and the claim of Neptune Meter Company for \$1,000.00, and the authority herein granted is granted upon the following conditions, and not otherwise:

1. Sonoma Valley Water, Light and Power Company shall submit to this commission a copy of the proposed mortgage and shall not execute any such instrument until it shall have obtained a supplemental order of this commission approving the same.

2. The authority herein granted to execute such mortgage shall apply only to such mortgage as shall have been executed on or before June 30, 1917.

3. Said mortgage shall not be executed until said George L. Payne shall have returned to applicant all of applicant's outstanding bonds and until applicant shall have canceled all of its bonds (whether issued or unissued) and the mortgage or deed of trust securing the same.

4. The property which applicant is hereby authorized to mortgage is described in the "Appendix A," attached hereto and hereby incorporated into and made a part of this opinion and order.

5. Nothing in this order or in the opinion which precedes it is intended or shall be construed as a direction that the claims of either Neptune Meter Company or of said George L. Payne shall be given any priority over the claims of any other creditor or creditors of Sonoma Valley Water, Light and Power Company.

Dated at San Francisco, California, this 11th day of January, 1917.

APPENDIX A.

Description of Property to Be Mortgaged.

Commencing at the westerly intersection of lots 49 and 72 of "Subdivision of the Lewis Ranch" as the same is laid down and so designated upon that certain map entitled "Subdivision of the Lewis Ranch," recorded March 8, 1912, in the office of the Recorder of the County of Sonoma, State of California, and filed in Book 27 of Maps, at page 21, running thence due west 1,042.8 feet to a stake driven at the intersection of said line with the westerly line of the original 640-acre tract deeded by M. G. Vallejo and wife, to Nicholas Carriger; thence north 45 degrees west 3,000 feet to a stake; thence northerly to a stake driven at the bend in the northerly line of the original 235-acre tract deeded by M. G. Vallejo and wife, to Nicholas Carriger, said stake being 2,313.7 feet westerly from the northwest corner of the original 640-acre tract above referred to; thence south 84 degrees 15' west 1,008.5 feet; thence south 17 degrees 15' west 50 feet; thence south 54 degrees 30' east 188.8 feet; thence due south 130.7 feet; thence south 5 degrees east 120.8 feet; thence south 42 degrees 45' east 100 feet; thence south 26 degrees 15' east 142 feet; thence south 7 degrees west 118.8 feet; thence south 39 degrees 45' east 108.2 feet; thence south 17 degrees 30' west 175 feet; thence south 22 degrees east 240.2 feet; thence south 42 degrees 15' east, 161.7 feet; thence south 3 degrees 30' west, 180.8 feet; thence south 12 degrees east, 184.8 feet; thence south 20 degrees east 169 feet; thence south 39 degrees 30' west, 257.4 feet; thence south 30 degrees east, 154.4 feet; thence south 4 degrees east, 295 feet; thence south 45 degrees 15' east, 184.8 feet; thence south 60 degrees 15' east, 277.9 feet; thence south 41 degrees 45' east 140.6 feet; thence south 46 degrees 45' east 130 feet; thence south 18 degrees 15' east 171 feet; thence south 75 degrees 15' east 179.5 feet; thence south 54 degrees 45' east 160.5 feet; thence south 46 degrees 15' east 266.6 feet; thence north 74 degrees 15' east 185.5 feet; thence south 24 degrees 15' east 238.3 feet; thence south 44 degrees 15' east 175.6 feet; thence south 60 degrees 45' east 292.4 feet; thence south 70 degrees 15' east 145.2 feet; thence south 34 degrees east 696.3 feet; thence south 34 degrees 45' east 971.5 feet to the southwest corner of the original 640-acre tract above referred to; thence easterly along the southern boundary of the said 640-acre tract to the southwest corner of lot 48 of the aforesaid "Subdivision of the Lewis Ranch"; thence northerly along the westerly line of lot 48 to the northwest corner of said lot 48; thence in an easterly direction along the northern boundaries of lots 48, 47 and 46 of said "Subdivision of the Lewis Ranch" to the northeast corner of lot 46 of said subdivision; thence northerly in a direct line to the southwest corner of lot 49 of said subdivision; thence northerly along the westerly line of said lot 49 to the point of beginning.

Also lots 49 to 55, inclusive, of said "Subdivision of said Lewis Ranch";

Also lot 17, containing 8.70 acres; lot 19, containing 5.43 acres, and lot 20, containing 3.88 acres, of the Lewis Tract, Subdivision A, as the same is laid down and delineated upon that certain map of the Lewis Tract as recorded in the office of the Recorder of the County of Sonoma, State of California, on December 21, 1910, in Liber 21 of Maps at page 19;

Also all the water and water rights and streams and courses that in any wise or manner heretofore, now or hereafter may or do attach in any manner to the property or property rights of the Yulupa Land and Water Company, and are in any manner or degree connected with, attached to, or related to the water system now upon the demised premises, which said water and water rights, streams and courses and system are for the purpose of storing, collecting and distributing water to the inhabitants of Sonoma Valley.

Also all of the reservoir, pipe lines, rights of way, distributing system, and all personal property used, or intended to be used in said water system;

And all the right, title, interest, estate, homestead, and other claim, legal or equitable, which the said mortgagor may now have or hereafter acquire in or to said premises, together with the appurtenances, and all the buildings and improvements that have been or shall be put thereon, and all the rents, issues and profits thereof.

Decisions Nos. 4006, 4007, 4008, grade crossings; not printed. See end of volume.

DECISION No. 4009.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING IT TO PURCHASE AND ACQUIRE CERTAIN GAS PROPERTIES AND FRANCHISES, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2561.

IN THE MATTER OF THE APPLICATION OF BIRCH OIL COMPANY TO SELL A GAS DISTRIBUTING SYSTEM AND CERTAIN FRANCHISE RIGHTS.

Application No. 2562.

Decided January 15, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

This commission having on October 9, 1916, made an order in this proceeding containing among other things the following:

“The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Southern Counties Gas Company of California of the rights and privileges conferred by Ordinance No. 93 of the county of Orange, adopted February 5, 1913, provided that Southern Counties Gas Company of California shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that Southern Counties Gas Company of California, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the actual cost to Birch Oil Company of acquiring said rights and privileges, which cost is represented by Birch Oil Company to have been \$100.00, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.”

And Southern Counties Gas Company of California on January 11, 1917, having filed with the Railroad Commission a stipulation as required in said order in form satisfactory to the Railroad Commission,

It is hereby ordered that the form of said stipulation be and the same is hereby approved.

Dated at San Francisco, California, this 15th day of January, 1917.

DECISION No. 4010.

R. C. H. KRAUSE

vs.

SPRING VALLEY WATER COMPANY.

Case No. 1032.

Decided January 15, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the proceeding entitled as above having, on January 15, 1917, made written request that this complaint be dismissed,

It is hereby ordered that the same be and it hereby is dismissed, without prejudice.

Dated at San Francisco, California, this 15th day of January, 1917.

DECISION No. 4011.

IN THE MATTER OF THE APPLICATION OF IMPERIAL TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS ENTIRE PROPERTY TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY AUTHORIZING IT TO PURCHASE AND ACQUIRE SAID PROPERTY.

Application No. 2246.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE FROM THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY OF THE ENTIRE CAPITAL STOCK OF IMPERIAL TELEPHONE COMPANY.

Application No. 2637.

Decided January 16, 1917.

Imperial Telephone Company authorized to transfer its telephone system in the Imperial Valley to the Pacific company for the nominal sum of \$10.00, which latter company is also authorized to acquire the entire issued capital stock

of the Imperial company, amounting to \$25,000.00 par value, from the Mountain Telephone Company, provided the Pacific company file a stipulation to the effect that it shall not hereafter claim a value for any franchise or permit acquired in excess of the actual original cost thereof, and that the book entries to be made on acquisition of property shall be in form satisfactory to the commission.

Pillsbury, Madison & Sutro, by *H. D. Pillsbury* and *James T. Shaw*, for Petitioners.

THELEN and GORDON, *Commissioners*.

OPINION.

The purpose of the two above entitled proceedings is to enable The Pacific Telephone and Telegraph Company to acquire control of the entire capital stock and of the entire property of Imperial Telephone Company, a telephone company operating in Imperial County, California.

The amended petition in Application No. 2246 alleges, in effect, that Imperial Telephone Company, hereinafter referred to as the Imperial company, and The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific company, are California corporations; that Imperial company desires to sell to the Pacific company its entire property of every character, except its corporate franchise, and that the Pacific company desires to acquire said property for the nominal sum of \$10.00; that the Pacific company is operating the property of the Imperial company and desires to acquire the same so that the ownership of the property may be in the corporation which is charged with the responsibility of operating the same; and that the original cost of the property of the Imperial company can not be ascertained but that its "present value" as of February 29, 1916, is the sum of \$156,347.91.

The petition in Application No. 2637 alleges, in effect, that The Mountain States Telephone and Telegraph Company, hereinafter referred to as the Mountain States company, one of the so-called "Bell" companies, owns the entire capital stock of Imperial Telephone Company, consisting of capital stock of the total par value of \$25,000.00; that Mountain States company desires to sell said capital stock to the Pacific company and that the Pacific company desires to acquire the same, at a price to be agreed upon between the parties, which price, however, the Pacific company stipulates shall never be used before the Railroad Commission or any other public authority as representing the fair value of said capital stock or of the property of the Imperial company for any purpose whatsoever.

Public hearings in these proceedings were held in San Francisco on December 18, 1916. At these hearings the above entitled proceedings

were consolidated for hearing and decision. No one appeared in opposition to the granting of the petitions.

The subject matter of this opinion will be considered under the following heads:

1. Imperial Telephone Company—History and Service.
- 2. Balance Sheet.
3. Finances.
4. Value of Property.
5. Franchises.
6. Proposed Consolidation.
7. Effect of Consolidation on Rates and Service.

1. Imperial Telephone Company—History and Service.

The Imperial company was incorporated under the laws of California on April 1, 1903, for the purpose of engaging in a general telephone business in a portion of what is now Imperial County, California. At the time of its incorporation, and for some time subsequent thereto, the Imperial company had no affiliation with any of the so-called "Bell" companies. After several years of operation, the capital stock of the Imperial company was acquired by an Arizona corporation called Consolidated Telephone, Telegraph and Electric Company, the name of which corporation was thereafter changed to Arizona Telephone and Telegraph Corporation. In June, 1912, the Mountain States company, a Colorado corporation, hereinbefore referred to, acquired all the property and assets of Arizona Telephone and Telegraph Corporation, including the entire capital stock of the Imperial company, having a total par value of \$25,000.00. The annual reports of the Imperial company to the Railroad Commission for the years ending December 31, 1913, 1914 and 1915, show purported changes in the ownership of the capital stock of the Imperial company, as between various of the so-called "Bell" companies, including the Pacific company, certain of which changes of ownership were not effective for the reason that the consent of the Railroad Commission, as required by section 51 (b) of the Public Utilities Act, was not secured. The petition in Application No. 2637 was filed primarily to clarify this situation and to make it possible for the Pacific company to acquire the entire control of the capital stock of the Imperial company under authorization from the Railroad Commission.

On January 27, 1913, the Mountain States company entered into an agreement with the Pacific company, under which agreement, together with extensions thereof, the Pacific company has been and is now operating the property of the Imperial company.

As shown by the annual report of the Imperial company for the year ending December 31, 1915, the Imperial company gives telephone

service to the following cities and communities in Imperial County: El Centro, Imperial, Brawley, Calexico, Holtville, Dixieland, Seeley, Heber, Silsbee, Meloland, Mobile, Alamorio, Westmoreland, Rockwood, Calipatria and Keystone. The Imperial company also serves the town of Mexicali, in Mexico, adjoining Calexico, in California.

On January 1, 1916, the Imperial company had 1,600 telephone stations and on September 25, 1916, 1,559 stations.

The Imperial company has been giving local exchange service in the communities hereinbefore specified and interexchange service between said communities. Long distance service has been given through connection with the long distance system of the Pacific company.

2. Balance Sheet.

Table I shows the balance sheet of the Imperial company as of September 30, 1916, as shown by Exhibit No. 4 of petitioners herein.

TABLE I.

Balance Sheet, Imperial Telephone Company, September 30, 1916.

ASSETS.	
Right of way.....	\$121 54
Land and buildings.....	12,094 69
Central office equipment.....	30,229 29
Station equipment.....	25,470 27
Exchange lines.....	94,764 67
Toll lines.....	25,450 39
General equipment.....	4,956 73
Total fixed capital.....	\$193,087 58
Construction work in progress.....	603 77
Total permanent and long term investments.....	\$193,691 35
Cash and deposits.....	\$2,913 83
Bills receivable.....	41 35
Accounts receivable.....	8,763 60
Materials and supplies.....	7,993 03
Total working assets.....	\$19,711 81
Prepayments	\$1,012 27
Total assets.....	\$214,415 43
LIABILITIES.	
Capital stock	\$25,000 00
Advances from system corporations, for construction, equipment and betterments	145,758 20
Accounts payable.....	26,981 62
Accrued liabilities not due.....	35 75
Other deferred credit items.....	1 75
Reserve for accrued depreciation.....	19,243 93
Surplus and undivided profits.....	*2,606 82
Total liabilities.....	\$214,415 43

*Deficit.

3. Finances.

The Imperial company has a total authorized issue of capital stock consisting of 250 shares of the par value of \$100.00 each, being a total par value of \$25,000.00, all of which capital stock is owned either directly or through the directors, by the Mountain States company.

The Imperial company has no bonded indebtedness and no outstanding deed of trust or mortgage. As shown by Table I, the Imperial company on September 30, 1916, owed the Pacific company for money advanced for capital account the sum of \$145,758.20. The Imperial company owed on accounts payable the sum of \$26,981.62.

Table II, being Exhibit No. 10 of petitioners herein, shows a comparative statement of the earnings and expenses of the Imperial company during the years 1913 to 1916, inclusive, with increases in the various items over 1913.

TABLE II.
Comparative Statement of Earnings and Expenses, Imperial Telephone Company, 1915 to 1916, Inclusive.

	1913		1914		1915		1916		Increase over 1913
	A	B Per cent	A	B Per cent	A	B Per cent	A	B Per cent	
Exchange service revenue.....	\$28,682	36.35	\$38,291	30.46	\$41,153	27.66	\$42,800	24.04	\$14,118
Toll service revenue.....	11,962	15.72	18,230	14.50	21,010	14.52	22,900	12.87	10,938
Miscellaneous operating revenue.....	2		889	.67	1,184	.80	1,300	.73	1,298
Total	\$40,646	51.51	\$57,390	45.03	\$63,947	42.98	\$67,000	37.64	\$26,354
Telephone operating expenses:									
Ordinary repairs.....	\$3,991	5.06	\$5,297	4.21	\$7,530	5.06	\$5,300	4.42	\$1,309
Station removals and changes.....	1,486	1.88	2,458	1.96	2,601	1.74	3,000	2.50	1,514
Depreciation.....	6,660	8.43	10,750	8.55	10,300	6.92	7,900	6.58	1,250
Total maintenance	\$12,127	15.37	\$18,505	14.72	\$20,421	13.72	\$16,200	9.10	\$4,073
General expense.....	8,757	4.94	4,246	3.38	4,385	2.95	7,300	6.08	3,543
Traffic expense.....	20,260	25.68	21,674	17.24	23,984	16.12	27,800	23.17	14,240
Commercial expense.....	901	1.14	7,856	6.25	6,780	4.56	6,700	5.58	70.29
Uncollectible.....	691	.88	654	.52	1,754	1.18	1,400	1.17	499
Taxes.....	111	.14	1,544	1.23	2,065	1.87	2,600	2.17	1,909
Rights, privileges and use of property, 1913.....									
Rents, 1914-1916.....			1,580	1.26	1,907	1.28	3,100	2.58	2,689
Total	\$37,847	47.97	\$56,059	44.60	\$61,335	41.22	\$65,100	36.57	\$27,253
Net revenue	\$2,799	3.54	\$1,301	1.03	\$2,612	1.76	\$1,900	1.07	*\$809
Stations (average).....	\$761		\$1,002		\$1,129		\$1,200		\$439
Plant (average).....	78,900		125,700		148,800		178,000		\$99,100
Reserve for depreciation.....	\$3,560	4.51	\$18,963	15.09	\$19,136	12.86	\$19,200	10.79	\$15,640
Surplus.....	40,580	51.43	9,882	7.86	4,218	2.83	*2,700	*1.52	*43,280
Total reserve and surplus	\$44,140	55.94	\$28,845	22.95	\$29,354	15.69	\$16,500	9.27	*\$27,640

NOTE.—Column A, per station; B, per cent average plant.
*Deficit.

It will be observed that Table II shows a net revenue of the Imperial company as follows:

1913	-----	\$2,799 00
1914	-----	1,301 00
1915	-----	2,612 00
1916	-----	1,900 00

Table II, however, contains no reference to return on the investment or interest payments. In Exhibit No. 3 of petitioners, deductions from net revenue are made for interest charges, being the interest paid by the Imperial company or claimed to be due from it by the Pacific company for moneys advanced. After making these interest deductions, the net profit of the Imperial company was as follows:

1913	-----	\$2,224 00
1914	-----	*5,697 91
1915	-----	5,664 09

Exhibit No. 3 of petitioners does not give the corresponding figures for 1916.

As will be observed from Table II, the total of the reserve for depreciation and the surplus fell from \$44,140.00 in 1913 to \$16,500.00 in 1916. Mr. J. C. Nowell, general manager of the Pacific company, testified that this reduction in the total reserve for depreciation and surplus was due in part to the fact that an account of \$15,000.00 under the head of "franchises" was charged off during this period.

It will also be observed from Table II that while the total gross revenue increased 64.84 per cent during this period and the operating expenses, including depreciation, 72.01 per cent, the plant investment increased 125.6 per cent. Mr. Nowell testified that the cause for the disproportional increase in plant investment was due to the fact that when the Pacific company commenced operating the property of the Imperial company, it found the property in very poor condition and that the Pacific company has advanced large sums of money to the Imperial company for the purpose of improving and extending the service.

4. Value of Property.

Petitioners reported that it was impossible to ascertain the original cost to date of the property of the Imperial company.

Petitioners filed herein as Exhibit "A," attached to the petition in Application No. 2246, an inventory and appraisal of the "structural value" of the tangible property, including materials and supplies, of the Imperial company as of February 29, 1916. Petitioners also submitted an estimate of the reproduction cost new of said property.

*Deficit.

The Railroad Commission's engineering department introduced as Railroad Commission's Exhibit No. 1, an inventory and appraisal of the same property as of the same date, showing both estimated reproduction cost new and estimated reproduction cost new less accrued depreciation.

Table III shows, by accounts, the estimated reproduction cost new of the property as estimated by the Pacific company and by the Railroad Commission's engineering department, as of February 29, 1916, together with the difference between said estimates.

TABLE III.

Estimated Reproduction Cost New—Tangible Property of Imperial Telephone Company, the Pacific Telephone and Telegraph Company and Railroad Commission's Engineering Department—February 29, 1916.

Account	Reproduction cost		Difference
	By Pacific company	By engineering department of Railroad Commission	
207—Right of way.....	\$112 79	\$111 30	\$1 49
211—Land	2,921 65	2,250 00	671 65
212—Buildings	288 10	288 10	—
221—Central office telephone equipment.....	19,942 47	19,486 07	456 40
222—Other equipment of central offices.....	796 21	811 84	*15 63
231—Station apparatus	14,673 53	14,606 00	67 53
232—Station installations	5,123 78	5,122 00	1 78
234—Private branch exchanges.....	709 48	696 00	13 48
235—Booths and special fittings.....	1,087 87	1,107 00	*19 13
241—Exchange pole lines.....	38,707 33	41,360 00	*2,652 67
242—Exchange aerial cable.....	13,275 84	13,787 00	*511 16
243—Exchange aerial wire.....	23,179 23	22,672 00	507 23
244—Exchange underground conduits.....	2,225 12	2,196 00	29 12
245—Exchange underground cable.....	2,976 99	3,073 00	*96 01
251—Toll pole lines.....	21,743 48	22,562 00	*818 52
253—Toll aerial wire.....	10,841 03	10,888 00	*46 97
254—Toll underground conduit.....	42 43	25 00	17 43
261—Office furniture and fixtures.....	2,196 23	2,261 25	*65 02
262—General shop equipment.....	8 94	9 11	* 17
264—General stable and garage equipment.....	1,423 93	1,451 93	*28 00
265—General tools and implements.....	517 95	528 33	*10 38
268—Interest during construction.....	753 78	—	753 78
---Materials and supplies on hand for use in California	6,661 34	6,030 40	630 94
Grand totals	\$170,209 50	\$171,322 33	*\$1,112 83

NOTE.—Star indicates engineering department of Railroad Commission in excess of Pacific company.

In said Exhibit "A," attached to the petition in Application No. 2246, herein, the Pacific company claims a "structural value" of the tangible property of the Imperial company amounting to \$156,347.91.

In Exhibit No. 1 of the Railroad Commission, the Railroad Commission's engineering department estimates a reproduction cost new less accrued depreciation of said property amounting to \$133,145.21.

It is unnecessary to determine herein the exact "fair value" of the property of the Imperial company for the purpose of transfer. The property has such value as inheres therein from just and reasonable rates. In Application No. 1870, being application of the Pacific company for an order establishing the rates to be charged by it in all its local exchanges in the State of California, the Railroad Commission will definitely establish just and reasonable rates to be charged by the Pacific company in its local exchanges in Imperial county, as well as elsewhere throughout the state.

5. Franchises.

The Imperial company reports that it has no franchises other than such rights as it may have under section 536 of the Civil Code of California.

Exhibit No. 6(4) of petitioners herein contains copies of certain indentures from various land companies granting to Imperial Telephone Company the right to construct and operate a telephone system over the streets and alleys of certain towns, as laid out by said land companies. These indentures are as follows:

1. Deed dated June 20, 1904, from Holton Town Company to Imperial Telephone Company—Holtville.
2. Deed dated January 14, 1904, from Blue Lake Town Company to Imperial Telephone Company—Silsbee.
3. Deed dated January 14, 1904, from Imperial Land Company to Imperial Telephone Company—Imperial.
4. Deed dated October 29, 1901, from Imperial Land Company to W. F. Holt, and deed dated September 28, 1904, from W. F. Holt to Imperial Telephone Company—Imperial Settlements.

In view of the fact that no franchises have been granted by public authorities to the Imperial company apart from such rights as the company may have under section 536 of the Civil Code and of the admitted fact that nothing was paid for such rights as may have been granted by section 536 of the Civil Code, the order herein will contain the condition that the Pacific company will never claim in any proceeding of any character any value by reason of any franchises owned or claimed by the Imperial company.

6. Proposed Consolidation.

Petitioners desire to effect the proposed consolidation by having the Imperial company convey to the Pacific company all its property with the exception of its corporate franchise and by having the Mountain

States company convey to the Pacific company the entire capital stock of the Imperial company. The Pacific company then proposes to transfer the property of the Imperial company to the Pacific company's books and disincorporate the Imperial company.

In response to an inquiry from the presiding commissioners as to how the Pacific company intended to show this transaction on its books, the Pacific company represented that it desired to add to the assets of the Pacific company on its books the full total of the assets of the Imperial company as shown on the Imperial company's books, just as though the Pacific company had, all along, owned the entire property of the Imperial company. The desire of the Pacific company in this respect and the reasons in justification thereof were not fully and satisfactorily explained at the hearing. The order herein will contain a condition to the effect that the authorization of the Railroad Commission shall not become effective until the Pacific company has submitted to the Railroad Commission book entries satisfactory to the Railroad Commission, to be made by the Pacific company in the consummation of the proposed consolidation.

7. Effect of Consolidation on Rates and Service.

The local exchange rates of the Imperial company, applicable to service within the various local exchange areas of that company, are on file with the Railroad Commission. These rates include rates for six- and ten-party business and residence service. The Imperial company, however, has no subscribers under ten-party rates. The Pacific company proposes to discontinue the present ten-party rates for both business and residence service and also the six-party residence rate, but to continue the six-party business rate. The company proposes to substitute for the present six-party residence service at \$2.00 per month, a four-party residence service at \$1.50 per month. This change will result in a better class of service at a lower rate than that now in effect for the six-party residence service. As far as the local exchange rates are concerned, there will be no increase in rates resulting from the transfer of the property to the Pacific company.

The rates of the Imperial company for service between its various exchanges appear in Exhibit No. 7 of petitioners, which appears herein as Table IV.

TABLE IV.

Rates Between Various Exchanges of Imperial Telephone Company.

To—	From—											
	Callpatria	Rockwood	Brawley	Alamorio	Imperial	El Centro	Seeley	Dixieland	Silsbee	Holtville	Heber	Calxico
Callpatria	0	05	10	15	15	20	25	30	35	20	25	25
Rockwood		0	05	10	10	15	20	25	30	15	20	20
Brawley			0	05	05	10	15	20	25	10	15	15
Alamorio				0	10	15	20	25	30	15	20	20
Imperial					0	05	10	15	25	05	10	10
El Centro						0	05	10	15	05	05	05
Seeley							0	05	25	10	10	10
Dixieland								0	15	15	15	20
Silsbee									0	25	25	25
Holtville										0	10	10
Heber											0	10
Calxico												0

The rates shown in Table IV are for conversations of two minutes or less. The overtime rate in each instance is 50 per cent of the initial rate for each additional minute or fraction thereof.

The Imperial company has two sets of interexchange rates, one set of rates being applicable to its subscribers and the other to members of the public who are not its subscribers but who desire to telephone between exchanges of the Imperial company.

The rates shown in Table IV are available only to subscribers of the Imperial company. Nonsubscribers, desiring to avail themselves of the interexchange service of the Imperial company, are charged 25 cents for a conversation of three minutes or less, 10 cents for the first minute of overtime or fraction thereof, 10 cents for the second minute of overtime or fraction thereof and 5 cents for the third minute of overtime or fraction thereof. The overtime rates are repeated as indicated for each succeeding three-minute overtime period. The rates thus stated are applicable to nonsubscribers with two exceptions, the one exception being a rate of 15 cents for three minutes and 5 cents for each additional minute or fraction thereof, applicable between El Centro and Imperial, and the other being a rate of 10 cents for two minutes and 5 cents for each additional minute or fraction thereof, applicable between Rockwood and Brawley.

In so far as long distance service between points on the system of the Imperial company and points on the system of the Pacific company are concerned, the rates now quoted apply uniformly to all points on the system of the Imperial company with the exception of the Imperial exchange, which takes a different rate.

The Pacific company intends to apply to the interexchange service between the various exchanges of the Imperial company and to the long distance business between points on the system of the Imperial company and points on the system of the Pacific company, the long distance rates which have heretofore been established by the Railroad Commission for the Pacific company and which are charged by the Pacific company for its entire long distance business in the State of California. The Pacific company proposes to apply its standard long distance rates both to subscribers of the Imperial company and nonsubscribers alike, so as to remove the present discrimination between the rates charged to subscribers and to nonsubscribers on the system of the Imperial company.

The effect of the application of the standard long distance rates of the Pacific company to the interexchange business of the Imperial company would be to reduce all the rates now charged to nonsubscribers, with the exception of one rate, which would remain the same as before.

Considering only the initial rates as a basis, the result of the application of the Pacific company's standard long distance rates between the exchanges of the Imperial company would increase 28 rates, or 12.7 per cent of the total, decrease 149 rates, or 67.7 per cent of the total, and leave 43 rates, or 19.5 per cent of the total, unchanged. Taking both initial and overtime rates as a basis, 28 rates or 12.7 per cent would be increased, 164 rates or 74.5 per cent would be reduced, and 28 rates, or 12.7 per cent, would remain unchanged. Taking only the rates heretofore charged to subscribers as a basis, both initial and overtime, 28 rates or 25.4 per cent would be increased, 56 rates or 50.9 per cent would be reduced and 26 rates or 23.6 per cent would remain unchanged.

The effect in revenue of the application of the Pacific company's standard long distance rates to the interexchange business of the Imperial company is difficult to forecast, because of the uncertainty as to the amount of this business which will continue to move between the various exchanges of the Imperial company. The difficulty in the forecast arises from the fact that the 5 cent rates now obtaining between various exchanges of the Imperial company are to be increased to 10 cents, as provided in the standard long distance rates of the Pacific company. Assuming that 75 per cent of the traffic over 5 cent routes continues, there would be an increase in gross revenue amounting to \$2,790.80. Assuming that 62½ per cent of the traffic continues over the 5 cent routes, there would be an increase in gross revenue amounting to \$411.90. Assuming that only 50 per cent of the traffic continues over the 5 cent routes, there would be a loss in gross revenue of \$1,967.05.

The application of the standard long distance rates of the Pacific company to the business which moved during the year ending April 20,

1916, between points on the system of the Imperial company and points on the system of the Pacific company, would result in an increase in gross revenue of \$78.84, being less than 1 per cent of the total gross revenue.

Prima facie, it would seem entirely reasonable to permit the Pacific company to apply to the interexchange business of the Imperial company and to the long distance business over points on the system of the Imperial company and points on the system of the Pacific company the standard long distance rates established by the Railroad Commission after exhaustive investigation and applicable to all other portions of the Pacific company's system. If, for any reason, the application of these rates should in any respect prove unjust or unreasonable, the matter may hereafter be drawn to the attention of the Railroad Commission.

The Pacific company proposes to operate the property of the Imperial company as it has heretofore been operated and to continue to give first class telephone service.

After careful consideration, we are of the opinion that the petitions herein should be granted, subject to the conditions contained in the order herein.

We submit the following form of order:

ORDER.

Imperial Telephone Company and The Pacific Telephone and Telegraph Company having filed their petitions for orders of the Railroad Commission as specified in the opinion which precedes this order, and a public hearing having been held thereon and these proceedings having been submitted and being now ready for decision,

It is hereby ordered that Imperial Telephone Company be and the same is hereby authorized to sell and convey to The Pacific Telephone and Telegraph Company the entire property of Imperial Telephone Company, except its corporate franchise, for the sum of ten dollars (\$10.00), and The Pacific Telephone and Telegraph Company is hereby authorized to acquire from the Mountain States Telephone and Telegraph Company the entire capital stock of Imperial Telephone Company, being capital stock of the par value of \$25,000.00, upon the following conditions and not otherwise, to wit:

1. Before the authority herein granted shall become effective, The Pacific Telephone and Telegraph Company shall have secured from the Railroad Commission a supplemental order herein reciting:

(a) That The Pacific Telephone and Telegraph Company has filed herein a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it and they will never claim before the Railroad Commission or any other public authority in any

proceeding of any character whatsoever, any value on account of any franchises or permits granted by any public authority to Imperial Telephone Company and assigned by said company to The Pacific Telephone and Telegraph Company.

(b) That The Pacific Telephone and Telegraph Company has submitted to the Railroad Commission entries, satisfactory to the Railroad Commission, to be made on the books of The Pacific Telephone and Telegraph Company in connection with the proposed acquisition by said company of the property and the capital stock of Imperial Telephone Company.

2. The price to be paid by The Pacific Telephone and Telegraph Company for the property and the capital stock, or either, of Imperial Telephone Company shall never be claimed by The Pacific Telephone and Telegraph Company to represent for rate making or any other purpose the fair value of the property or of the capital stock of Imperial Telephone Company.

3. Within thirty (30) days from the execution of deed of conveyance from Imperial Telephone Company to The Pacific Telephone and Telegraph Company, The Pacific Telephone and Telegraph Company shall file herein a certified copy of said deed of conveyance.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of January, 1917.

DECISION No. 4012.

HENRY RILEY

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 1001.

Decided January 15, 1917.

Defendant directed to make an extension at an estimated cost of approximately \$2,406.00, to enable it to serve complainant with electric energy for power purposes, provided complainant enter into an agreement to provide a minimum annual revenue of \$1,800.00 for a period of ten years. Such conditions not to be taken as a precedent in other cases.

Arthur L. Levinsky, for Complainant.

Charles P. Cutton, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint by Henry Riley, of Canal Farm, San Joaquin County, against the Pacific Gas and Electric Company, alleging in

effect that upon several occasions the complainant has made application to the defendant to extend its line and provide the necessary facilities to serve the complainant with electric power for reclamation pumping service and for lighting complainant's house, barn and bunkhouse, and that upon each occasion the defendant has refused to comply with such application unless the complainant would agree to bear the cost of the proposed extension, and that it is the duty of the defendant to furnish the necessary facilities for such service at defendant's expense.

In its answer to this complaint the defendant admits that application was made and refused as alleged, but denies that under the particular facts of this case it is defendant's duty to furnish the necessary lines and facilities at its own expense. Defendant accordingly asks that the complaint be dismissed.

A public hearing in this case was held at Stockton on December 13, 1916, and from the evidence submitted it appears that the facts are as follows:

The complainant, Mr. Henry Riley, owns and operates a ranch consisting of about 3400 acres of land known as the Canal Farm, which is located in San Joaquin County, being portions of township four (4) north, range five (5) east, and township four (4) north, range four (4) east of Mount Diablo Base and Meridian. Practically all of this ranch is under cultivation.

It is necessary for the complainant during the winter season, by the use of reclamation pumps, to remove the flood water from all of this land and about 1500 acres adjacent thereto, which, being higher, naturally drains onto the Canal Farm. It is also necessary during the summer season to remove in the same manner such water as is applied to this land for irrigation purposes. For the past four years the complainant has been operating for this purpose two fifteen-inch centrifugal pumps driven by a steam engine. He now desires to install a twenty-six-inch centrifugal pump to be driven by a 150-horsepower electric motor, retaining the steam-driven pumps for standby purposes and to take care of any flood conditions which might be in excess of the capacity of such electrical installation. He estimates that the operation of the twenty-six-inch pump would be required continuously for approximately ninety days during the winter and for a portion of alternate days during from four to five months in the summer.

Defendant's 11,000 volt lines are at present within 6600 feet of the point where the service is required. To furnish this service it will be necessary to extend this 11,000 volt line across private property for approximately that distance. About 3277 feet of this extension will be on property jointly owned by the complainant and others and the balance will be on the Canal Farm. Defendant estimates that the cost

of constructing this line will be about \$2,406.00. The complainant is willing to receive electric energy at the line voltage and to sign a contract to secure this service for a period of ten years. He is also ready to furnish defendant with a satisfactory right of way for the necessary line on the Canal Farm and to take steps to obtain such right of way on the other private property which it will be necessary to cross.

It was stipulated that the parties herein, after consultation, would endeavor to determine the amount of such guarantee which would be mutually agreeable and would file a statement in regard to this agreement with this commission. Such statement was filed by Mr. Arthur L. Levinsky, attorney for complainant, on December 14, 1916, showing that the complainant is willing to guarantee an annual minimum of \$1,800.00, which the commission has been advised is also agreeable to the defendant. This is equivalent to \$12 per horsepower per year, and in accordance with defendant's schedule of electric rates No. 116—"Reclamation Power Service"—entitles the consumer to a rate of one cent per kilowatt hour for all energy consumed.

Without in any way approving ten years as the proper term of such a contract, we will authorize it in this case since this is in accordance with the expressed desires of the complainant herein. This voluntary agreement between the parties, however, must not be regarded as a precedent for future cases before this commission.

After careful consideration of the evidence submitted herein, this commission finds that the complainant is entitled to receive service and that defendant should construct, at its own expense, the necessary line under the conditions specified in the following order.

ORDER.

A public hearing having been held in the above entitled proceeding and the case having been submitted and being now ready for decision, and the commission finding as a fact that the Pacific Gas and Electric Company should extend its lines to serve applicant under the conditions as outlined in this order,

It is hereby ordered that the Pacific Gas and Electric Company, within twenty days after receipt of notification from Henry Riley that the necessary rights of way have been obtained, shall construct and extend its electric lines and furnish complainant with electric energy for lighting and power purposes as requested, provided that Henry Riley shall agree to pay to the Pacific Gas and Electric Company a minimum annual revenue of \$1,800.00 for a period of ten years, or until such less time as the rates or regulations covering this matter are changed by this commission.

Dated at San Francisco, California, this 15th day of January, 1917.

DECISION No. 4013.

IN THE MATTER OF THE SCHEDULES OR TARIFFS OF RATES OF
CHARGES OF AMERICAN EXPRESS COMPANY.

Case No. 124.

Decided January 15, 1917.

BY THE COMMISSION.

ORDER.

American Express Company having adopted the rates established by the Railroad Commission for Wells Fargo & Company and adopted by Wells Fargo & Company (Volume 6, Opinions and Orders of the Railroad Commission of California, page 184), and good cause appearing,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of January, 1917.

DECISION No. 4014

IN THE MATTER OF THE SCHEDULES OF TARIFFS OF RATES OF
CHARGES OF GLOBE EXPRESS COMPANY.

Case No. 123.

Decided January 15, 1917.

BY THE COMMISSION.

ORDER.

Globe Express Company having ceased operation in California, and good cause appearing,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of January, 1917.

DECISION No. 4015.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE No. 161 OF THE CITY OF SALINAS.

Application No. 2697.

Decided January 15, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights, obtained under a franchise secured from the city of Salinas, permitting the construction and operation of a telephone system in said city, provided that no value shall ever be claimed for such franchise in excess of the actual cost thereof.

Pillsbury, Madison & Sutro and James T. Shaw, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by The Pacific Telephone and Telegraph Company, asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by Ordinance No. 161 of Salinas City, Monterey County, adopted November 6, 1916.

A public hearing was held at San Francisco January 4, 1916, the testimony being taken by Examiner Bancroft.

From the evidence it appears that on January 19, 1916, The Pacific Telephone and Telegraph Company made an application by petition in writing to the council of Salinas City for a telephone and telegraph franchise; that on September 11, 1916, said application came on regularly to be heard and considered by said council, and thereupon, by order of said council the proposed telephone and telegraph franchise was duly advertised to be sold to the highest bidder. As a result of these proceedings, Ordinance No. 161 of Salinas City was adopted on November 6, 1916, granting to The Pacific Telephone and Telegraph Company for a term of twenty-five years the right to construct, operate and maintain a general telephone and telegraph system on, along and under the public streets and other public places of said Salinas City.

The ordinance was adopted in accordance with the provisions of the Broughton Act and includes the usual provisions for payment annually of 2 per cent of the gross annual receipts arising from the exercise of the franchise.

This ordinance contains provisions with reference to repairing the streets within a reasonable time after excavations have been made, the furnishing of fifteen free telephones to Salinas City, and the free use

by the city of the necessary fixtures on the top of poles, or the necessary space in the conduits, maintained under said franchise for the purpose of stringing or erecting wires for police or firealarm purposes.

Section 9 of the ordinance provides in effect that applicant, its successors or assigns, shall not, without the written consent of Salinas City, evidenced by ordinance, sell or transfer the conduits, poles, wires, or appliances of any kind or description, or lease or transfer any of the rights or privileges granted by the franchise, and shall not at any time enter into any combination directly or indirectly with any person or persons, or any corporation, concerning the rates to be charged for telephone or telegraph service, and no officers or employees or managers of the telephone or telegraph system authorized under said franchise shall at any time be in charge of, or be officers, employees or managers of, any other telephone or telegraph system constructed or being operated in said Salinas City; provided, however, that The Pacific Telephone and Telegraph Company, its successors or assigns may, for the purpose of reorganization or refinancing, assign said franchise and said property to any corporation to which it shall transfer all its franchises and property within the State of California, and all its business within said state; and provided, further, that notice of said assignment shall be filed with the city clerk of Salinas City within sixty days after the execution of said assignment. The ordinance contains further provisions to which it is not here necessary to refer.

It further appears from the evidence that The Pacific Telephone and Telegraph Company has been operating the only telephone exchange in Salinas City and that it now has 879 subscribers to said exchange.

Applicant has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity in connection with said territory, but we find that the failure to make such application was due solely to the belief of applicant's officers that such an application was not necessary. In our opinion the application should be granted, subject to the conditions contained in the following order:

ORDER.

The Pacific Telephone and Telegraph Company having filed the above-entitled application, asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held upon said application, the Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 161 of Salinas City, adopted on November 6, 1916, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for

itself, its successors and assigns, that they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 161 of the city of Salinas, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

Dated at San Francisco, California, this 15th day of January, 1917.

DECISION No. 4016.

IN THE MATTER OF THE APPLICATION OF VALLEJO AND NORTHERN RAILROAD COMPANY FOR AN ORDER PERMITTING THE CROSSING AT GRADE OF ITS TRACKS WITH THE TRACKS OPERATED BY THE SOUTHERN PACIFIC COMPANY AT AND IN THE TOWN OF SUISUN, SOLANO COUNTY, CALIFORNIA.

Application No. 407.

Decided January 15, 1917.

Applicant was heretofore directed to construct, at separate grades, its tracks where they cross those of the Southern Pacific Company at Suisun. Permission was granted for the temporary construction of such tracks at grade, which permission is extended until such time as the reorganization of applicant shall have been completed and the road again placed in the hands of its security holders.

John P. Coghlan, receiver, and *T. T. C. Gregory*, for Applicant.

George D. Squires, for Southern Pacific Company.

B. L. Gregg, for town of Fairfield.

T. W. Chester, for town of Suisun.

GORDON, *Commissioner*.

SECOND SUPPLEMENTAL OPINION.

The first supplemental opinion and order in this application, reported at page 631, Volume 6 of the Opinions and Orders of the Railroad Commission of California, reviews the previous order of the commission and the subsequent proceedings bearing on this application, and it is unnecessary to go into the subject again. It is sufficient to say that the original order granted applicant permission to cross under the the Southern Pacific tracks; that the expense of the crossing was divided between the applicant, the Southern Pacific Company, the town of Suisun and the town of Fairfield; and that permission was granted for a temporary crossing at grade pending the installation of the subway. The supplemental order required the subway to be completed by December 31, 1916.

The Vallejo and Northern Railroad Company, now owned by the Northern Electric Railway Company, was at the last hearing, and still is, in the hands of the receiver, Mr. J. P. Coghlan, who filed a supplemental application on December 15, 1916, asking for a further extension of time in which to install the subway; the reason being that he has no funds available to cover the proportion of the expense which applicant was required to pay under the order. A hearing was had on the supplemental application on January 8, 1917.

In the previous supplemental order the commission said:

"The operation as carried on over the Southern Pacific tracks at present, is under the protection of a flagman stationed there at all times, at an expense paid equally by the Northern Electric and the Southern Pacific Companies. The general manager of the Northern Electric, who was formerly division superintendent of the Southern Pacific on this division, testified that in his opinion this method of operation was comparatively free from danger, and the attorney for the Southern Pacific Company stated that the operating officials of his company did not feel that the operation of the crossing was dangerous, and that he felt, further, that neither company would feel justified in spending the amount of money necessary for a subway to serve the infrequent operation now rendered by the Northern Electric."

Although the Southern Pacific now opposes a further extension of time no evidence was offered, nor does it appear, that operating conditions have changed since this was written.

I am entirely willing to recommend an extension of time to enable the matter to be handled by the officials of the reorganized road rather than by the receiver as it appears probable that the reorganization of the road will be effected at no very distant date; but I am entirely unable to agree with counsel for applicant that after the reorganization of the road is completed its officials will, then, consider whether or not they will be justified in making the necessary expenditures for a subway. The commission granted permission for the grade crossing to be installed here as a temporary expedient to enable applicant to secure an entrance to Suisun at an early a date as possible. Since that time business in Suisun has been adjusted to fit the new line, and we have had ample testimony to show that the track can not now be removed or the service abandoned, without working considerable hardship upon the merchants and residents of Suisun as well as those who live in the vicinity and trade there.

As I look at it applicant accepted the responsibility of paying its proportion of the cost of the subway when it installed the temporary crossing, and it is now too late to balance the earnings of the Suisun business against its proportion of the subway expense. Neither is it fair now to ask that the commission's order be modified to permit a permanent crossing at grade, since the operation of the line for three years has materially changed the conditions under which the original

application was considered, and it is no longer possible to balance the hazard such a crossing would create with the public benefit to be derived therefrom. At the time of the first hearing on the matter this was considered and a grade crossing was denied. The hazard of a permanent grade crossing would be no less today, but the establishment of the temporary crossing, the construction of the line to Suisun, and the consequent rearrangement of business has vastly increased the public interest. This increased interest, however, can not be used to justify, at the present time, with no other conditions changed, a type of crossing which the commission refused to consider when the matter was first brought to its attention, even though it is possible that applicant expected to make a greater use of the crossing than it has actually made. To restate the matter in another way: when the applicant undertook to secure an entrance into Suisun across the tracks of the Southern Pacific it assumed a risk that the venture would not be profitable. If it is now found to be unprofitable it can not refuse the responsibility, since to do so would either create a permanent hazard, if the grade crossing were made permanent, or would seriously disarrange the business interests at Suisun it has built up by means of a temporary crossing if service were abandoned.

I believe the committee now engaged in working out a reorganization plan should consider the obligation to pay part of the cost of the subway exactly as it considers any other obligation of the road—a franchise obligation for instance—and when it is again in the hands of the security holders the construction of the grade separation should be commenced at once.

I recommend the following form of order:

SECOND SUPPLEMENTAL ORDER.

J. P. Coghlan, receiver for the Vallejo and Northern Railroad Company, having applied to the commission for an extension of time in which to complete the subway ordered to be constructed, and a public hearing having been held, and it appearing that some extension of time should be granted,

It is hereby ordered that applicant be hereby granted an extension of time until the property of which applicant is receiver shall again be operated by its security holders; provided, that any change in the conditions surrounding this crossing, in the operation of trains or in the physical condition, shall be sufficient justification for the commission to order the construction of this subway at an earlier date; and provided, further, that the commission reserves the right to make such further orders regarding this crossing as to it may seem right and proper.

All the other conditions and requirements of the original order and the supplemental opinion and order shall remain in full force and effect.

The foregoing second supplemental opinion and order are hereby approved and ordered filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1917.

Decision No. 4017, grade crossing; not printed. See end of volume.

DECISION No. 4018.

GEM CITY PACKING COMPANY

vs.

SAN JOSE WATER COMPANY.

Case No. 489.

Decided January 16, 1917.

BY THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

It is hereby ordered that the application for rehearing filed herein by Gem City Packing Company be and the same hereby is denied.

Dated at San Francisco, California, this 16th day of January, 1917.

DECISION No. 4019.

W. J. ROGERS AND CENTRAL PACIFIC LAND AND LUMBER COMPANY

vs.

SACRAMENTO VALLEY WEST SIDE CANAL COMPANY AND WILLIAM F. FOWLER, RECEIVER OF THE PROPERTY OF SACRAMENTO VALLEY WEST SIDE CANAL COMPANY.

Case No. 597.

SACRAMENTO VALLEY REALTY COMPANY ET AL.

vs.

SACRAMENTO VALLEY WEST SIDE CANAL COMPANY AND WILLIAM F. FOWLER, RECEIVER OF THE PROPERTY OF SACRAMENTO VALLEY WEST SIDE CANAL COMPANY.

Case No. 673.

Decided January 16, 1917.

Supplemental order establishing the following rates for irrigation service, made effective for the irrigation season of 1917: Flat rate, rice, \$7.00 per acre per annum; all other crops, \$2.00 per acre per annum; measured, \$2.00 per acre per annum for 1½ feet per acre; \$1.50 per acre foot for each additional acre foot in excess of 1½ feet. Such charge to cover only the amount of water actually delivered at the private laterals of owners, any additional laterals which may be necessary to be constructed at the cost of landowners who shall also bear cost of operating and maintaining the same and the cost of constructing and maintaining necessary gates.

Application to be made for water on or before the fifteenth day of February, such application to be accompanied by 10 per cent of the cost thereof, balance to be paid in five monthly installments, provided that when rate shall exceed \$2.00 per acre, notes secured by crop mortgage or other security may be given. A consumer that has failed to pay for water received during the year 1916 may be required to pay fully in advance at the time of filing application.

C. L. Donohoe, for Complainants.

Devlin & Devlin, for W. F. Fowler, receiver.

S. C. Davis, for Sacramento Valley Land Owners Association.

THELEN, Commissioner.

SECOND SUPPLEMENTAL OPINION.

This is a petition by complainants in Cases Nos. 597 and 673, that the Railroad Commission make its order extending to and including October 31, 1917, the supplemental order of February 7, 1916, herein, prescribing the terms and conditions for the supply by W. F. Fowler, as receiver of the property of Sacramento Valley West Side Canal Company, of water to complainants and other landowners in Glenn and Colusa counties.

A public hearing was held in San Francisco, on January 13, 1917, at which time evidence was taken and the cause submitted.

W. F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, testified that in 1916 he supplied water for the irrigation of 9,678 acres of general crops and 9,137 acres of rice. He also testified that he had supplied all the water which the main canal of this water system, in its present condition, could carry. He further testified that by the expenditure of approximately \$10,000.00 in enlarging the main canal, he expected to be able to sell water during 1917 for at least 5,000 additional acres of land in the central irrigation district.

The following requests of the receiver for modifications in the supplemental order of February 7, 1916, were assented to by counsel for the complainants and will be embodied in the second supplemental order herein:

1. That applications to the receiver for water for 1917 shall be in the hands of the receiver by February 15, 1917;
2. That when the flat rate is not in excess of \$2.00 per acre, the receiver may instead of insisting on the payment of the rental a month in advance, in his discretion, take security satisfactory to him for payment of the rates;
3. That if any consumer of water during the irrigation season of 1916 failed to pay in full for his water he should be required to pay the entire season's rates in cash in advance at the time of filing his application for water in 1917;

4. That the receiver may make rules and regulations by which the service of water to rice growers may be discontinued if a proper levee has not been constructed around the rice field so as to prevent the wastage of water, and that the receiver may make rules and regulations to prevent the users of water for rice growing purposes from permitting water to escape from the bottom of the checks after the flood stage has been reached.

The request of the receiver for a modification of the order of February 7, 1916, with reference to the payment of the cost of operating and maintaining laterals, should be denied for the reason that the receiver has not shown satisfactory reasons for this requested modification.

The request of the receiver that the consumers of water for the year 1916 shall have the first preference during 1917 over persons who were not supplied with water during the year 1916, should be denied for the reason that this request presents legal questions on which it is not now necessary to rule and which questions will become entirely academic in case the receiver has sufficient water to meet all demands.

I submit the following form of second supplemental order:

SECOND SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered as follows:

1. Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, are hereby authorized to charge for water furnished at the bank of the main and river branch canals during the irrigation season of 1917 the following rates:

Flat Rates.

For rice -----	\$7.00 per acre per annum;
For all other crops-----	2.00 per acre per annum; or

Measured Rates.

Where water is measured, the rate shall be \$2.00 per acre per annum for the use of one and one-half ($1\frac{1}{2}$) feet per acre during the irrigating season, with an additional charge of \$1.50 per acre-foot per annum for each acre-foot used in excess of one and one-half ($1\frac{1}{2}$) acre-feet.

The amount of water for which rates shall be charged shall be the amount of water finally delivered at the private laterals of the landowners, the company bearing the loss due to evaporation and seepage between the main and river branch canals and the land where the water is used.

2. Such additional laterals as may be necessary to serve the landowners under the system of Sacramento Valley West Side Canal Company shall be constructed at the expense of the landowners and

according to standard specifications of Sacramento Valley West Side Canal Company.

3. The cost of operating and maintaining the laterals during the irrigation season of 1917 shall be borne by the landowners and not by the receiver.

4. Where it is necessary to construct gates in the bank of the main and river branch canals, through which water is to be delivered, said gates shall be constructed and maintained by and under the supervision of the Sacramento Valley West Side Canal Company and the receiver thereof, provided that the landowner shall advance the cost of the same.

5. Landowners desiring water for the irrigation of lands during the season of 1917 shall make application to the utility in writing, describing the land desired to be irrigated and the kind of crops to be raised thereon, this application to be made on or before February 15, 1917, on the condition that a payment of 10 per cent of the cost of the water applied for shall accompany the application, the balance to be paid in five equal monthly installments. Where the flat rate is in excess of \$2.00 per acre, such payments may be evidenced by promissory notes dated the first day of each month beginning May 1, 1917, all payable November 1, 1917, such notes to be secured by a crop mortgage, which shall be a first lien on the crop, or, in case such crop mortgage can not be given, then other security shall be given to the satisfaction of the utility, such notes to bear interest at the rate of 7 per cent per annum, and on the further condition that the water to be furnished to landowners for the season of 1917 shall be furnished in the order of furnishing provided in this commission's order heretofore made on June 14, 1915. Where the flat rate is not in excess of two dollars per acre, cash shall be paid to the said receiver in monthly payments in advance for the water to be furnished during the season of 1917, but said receiver is authorized, in his discretion, in such cases to take security satisfactory to him for the payment of such water rates.

6. If any landowner or consumer of water during the irrigation season of 1916 has not paid in full for water the rates authorized by this commission to be charged for water, he shall be required to pay the entire season's rates in cash in advance at the time of filing his application.

7. The receiver is authorized to make rules and regulations by which the service of water to those growing rice may be discontinued in any case where the owner or person growing rice has not provided for a proper levee surrounding the field growing rice so as to prevent

the wastage of water, and is also authorized to provide rules and regulations which will prevent the users of water for rice growing purposes permitting water to escape from the bottom of the checks after the flood stage has been reached.

8. This order shall remain in effect to and including October 31, 1917.

It is to be understood that this order is made solely for the irrigation season of 1917, and that the order heretofore made on June 14, 1915, shall remain in effect except as modified by this order and shall again be in full force and effect upon the expiration of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of January, 1917.

DECISION No. 4020.

ERNEST WARD, DOING BUSINESS UNDER THE FIRM NAME AND
STYLE OF WARD'S AUTO BUS,

vs.

STEVEN CARUSA AND VINCENZO CARUSA, COPARTNERS DOING
BUSINESS UNDER THE FIRM NAME AND STYLE OF CARUSA BROS.

Case No. 1031.

Decided January 16, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

It appearing to the Railroad Commission that it does not have jurisdiction to grant the relief prayed for in the complaint herein,

It is hereby ordered that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 16th day of January, 1917.

DECISION No. 4021.

IN THE MATTER OF THE APPLICATION OF TROPICO CITY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCKS AND BONDS BY SAID CORPORATION, AND FOR THE CONVEYANCE TO IT OF THE WATER SYSTEM SITUATED IN THE CITY OF TROPICO, STATE OF CALIFORNIA, NOW OWNED, OPERATED AND CONTROLLED BY THE TITLE GUARANTEE AND TRUST COMPANY AS TRUSTEE FOR THE BONDHOLDERS OF THE GLENDALE CONSOLIDATED WATER COMPANY.

Application No. 2660.*Decided January 16, 1917.*

BY THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

Tropico City Water Company having on January 13, 1917, filed application for rehearing herein, and the commission being of the opinion that there is no good reason why a rehearing should be had,

It is hereby ordered that said application for rehearing be and the same hereby is denied.

Dated at San Francisco, California, this 16th day of January, 1917.

Decision No. 4022, grade crossing; not printed. See end of volume.

DECISION No. 4023.

GILROY CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 982.*Decided January 16, 1917.*

Petition on behalf of complainant that the commission compel defendant company to construct a new and adequate passenger depot in the city of Gilroy.

Held, though the gross receipts from the station in question have decreased during the last three years due to automobile competition, the present depot which has been in service for forty-seven years, is inadequate to properly serve the residents of Gilroy and adjacent communities served by the Tres Pinos branch of defendant. Defendant directed to file within sixty days, for the approval of the commission, plans for a new depot to cost not less than \$10,000.00 and to construct such depot six months after the approval of such plans.

Sanborn & Roehl, for complainant, and for interveners, City of Gilroy, City of Hollister, and Hollister Chamber of Commerce.

Geo. D. Squires, for Defendant.

GORDON, *Commissioner*.

OPINION.

This is a complaint on behalf of the Gilroy Chamber of Commerce alleging that the depot of the Southern Pacific Company at the city of

Gilroy is old, antiquated, inconvenient, uncomfortable and unsuited for the wants of the residents of Gilroy, that the growth of the city of Gilroy demands a new depot of modern appearance, fitted with ample waiting rooms and rest rooms for the convenience of the public; and that the Southern Pacific Company contemplates moving the present existing depot structure to a new location and unless restrained by an order of this commission will move the present structure and place same at a new location. The commission is asked to enter its order requiring the defendant, Southern Pacific Company, to erect a new depot building suitable to the wants of the public at the city of Gilroy.

The city of Hollister and Hollister Chamber of Commerce requested permission to intervene, alleging that the depot maintained by the Southern Pacific Company at the city of Gilroy was inadequate and unsuitable for the needs of passengers to or from the station of Hollister and other points on the Tres Pinos branch who were required to change cars or await trains at Gilroy.

The city of Gilroy, a municipal corporation, requested permission to intervene, alleging the inadequacy of the depot building maintained by the Southern Pacific Company and stating that the city of Gilroy by reason of its size and importance as the terminal and junction point of the Tres Pinos branch of the Southern Pacific Company was entitled to a modern and attractive railroad depot, equipped with adequate waiting and rest rooms for the convenience of the public.

The defendant Southern Pacific Company, filed its answers to the complaint and to the petitions of interveners denying the material allegations of the complainant and interveners and outlining its intention to expend a sum approximately \$3,000.00 in the alteration and repair of the existing depot, same contemplating the removal of the structure to a new location.

A public hearing was held at Gilroy on September 29, 1916, the matter was submitted and is now ready for decision.

Witnesses for complainant testified that the present population of the city of Gilroy is about 3,000 and that about 3,000 people reside outside the corporate limits of the city and were served by the Gilroy station of Southern Pacific Company. No material increase in the population of the city of Gilroy has been made in the past few years and the principal increase in population has been in the territory tributary to the city and outside the city limits. A considerable agitation for civic improvements has been made and an expenditure of about \$113,000.00 has been made during the past three years for street paving, improvement of water system, fire protection, etc., in the city of Gilroy and the complainants desire a more modern depot building in connection with the general civic improvement.

The station of Gilroy serves the passenger business only, all freight being handled at a separate building. It will therefore be necessary to consider this matter solely as a passenger proposition, no complaint having been made as to the inadequacy of the facilities provided for the conduct of freight business.

Records furnished by the Southern Pacific Company show the ticket sales from Gilroy station to be as follows:

Fiscal year ending June 30, 1914.....	\$46,209 93
Fiscal year ending June 30, 1915.....	41,898 32
Fiscal year ending June 30, 1916.....	38,248 64

The above statistics indicate a substantial decrease in the passenger business derived by the Southern Pacific Company from the city of Gilroy, the privately owned automobile and automobile bus have been responsible to a considerable extent for the decrease shown. Several lines of automobiles, operated for hire, serve the territory between Gilroy and San Jose and an exhibit was introduced by defendant showing 80 passengers daily handled between Gilroy and San Jose; 10 passengers daily handled between Gilroy and Hollister; and 10 passengers daily handled between Gilroy and points served by the Southern Pacific Company on its Tres Pinos branch, other than Hollister.

The greatest decrease in passenger revenue as reflected by the record of ticket sales at the station of Gilroy occurred in the year when the heaviest travel incident to the Panama-Pacific International Exposition at San Francisco was present for a six months period.

The passenger business of the Southern Pacific Company as reflected by ticket sales at the station of Hollister also shows a decrease, the statistics being as follows:

Fiscal year ending June 30, 1914.....	\$42,441 46
Fiscal year ending June 30, 1915.....	43,768 56
Fiscal year ending June 30, 1916.....	35,786 84

The patrons of the Southern Pacific Company to and from the station of Hollister and other points on the Tres Pinos branch use the station of Gilroy as a transfer point from and to main line trains.

The present station at Gilroy was erected in 1869 and while some rearrangement and alterations have been made, the station is old and can not be considered as adequate for the volume of business furnished by the patrons of the defendant company. The building at

present furnishes the following space in its various rooms for the accommodation of the traveling public:

Main waiting room, 19' x 25'6" -----	484.5 sq. ft.
Women's room, 9'6" x 10'6" -----	99.7 sq. ft.
Men's toilet, 9'6" x 8' -----	76.0 sq. ft.
Ticket office -----	546.0 sq. ft.
Record room -----	45.0 sq. ft.
Baggage room -----	266.0 sq. ft.
Total -----	1,517.2 sq. ft.

The Southern Pacific Company had completed plans for the rehabilitation and enlargement of the station, including the removal to a new location approximately 500 feet east of the present site. The rearrangement and additions contemplated would have given the following space:

Open waiting room, 20 x 24' -----	480.0 sq. ft.
Women's room, 14 x 19' -----	266.0 sq. ft.
General waiting room, 19 x 34' -----	646.0 sq. ft.
Men's toilet, 11'6" x 6'9" -----	77.5 sq. ft.
Ticket office, 15 x 29' -----	435.0 sq. ft.
Record room, 6'6" x 7' -----	45.0 sq. ft.
Baggage room, 19 x 26' -----	494.0 sq. ft.
Total -----	2,433.5 sq. ft.

The proposed changes would have reduced the space allotted to the ticket office but would have furnished an additional open waiting room, increased the size of the general waiting room, women's room and baggage room. The access to the men's toilet would be from the outside of the building instead of from the general waiting room as formerly. The Southern Pacific Company estimated the expense of the proposed rehabilitation and improvements, including the moving of the depot to the new location, at \$3,920.00. The principal reason for the proposed removal of the station to a location approximately 500 feet south of its present site is to avoid the blocking of an important highway known as "Old Gilroy street" by long passenger trains standing at the station, and it was shown that during the period August 19 to August 27, 1916, both dates inclusive, that an average of 448 vehicles per day used this crossing and the moving of the depot building to the proposed new location would benefit the public using this highway.

The average number of patrons using the station facilities at Gilroy in connection with passenger trains for a period reflected by a nine days check (August 19 to August 27, 1916, both dates inclusive) was 258 per day; in addition an average of 70 persons per day used the station for the purpose of meeting or accompanying friends arriving

or departing on Southern Pacific trains, a total average of 328 persons daily using the facilities of the defendant company during this period.

The conditions presented in this proceeding are unusual in that a steady decrease in the passenger revenue of the defendant company at the station of Gilroy is apparent. The population of the city of Gilroy has increased by an average of but 100 persons per year for the past five years and while the section tributary to the city of Gilroy and the passenger station of the defendant at that point is increasing, a corresponding increase in the passenger revenue is not present.

The Southern Pacific Company, defendant in this case, had prepared plans and were about to make extensive rehabilitation of their present station building at the time complaint in this case was filed. It was also developed by the testimony of Mr. Thos. Ahern, division superintendent of the Southern Pacific Company, that the work of double tracking the line from San Jose to Watsonville Junction had been contemplated and was still under consideration at this time, and that such plans might entirely change the point of location of the Gilroy passenger station. It would appear that the rehabilitation proposed utilizing the present structure was the solution deemed satisfactory by the Southern Pacific Company in consideration of the proposed double tracking and the consequent possibility of new station facilities being established in connection with that work, also considering the decreased passenger revenue as derived from Gilroy Station and the stations on the Tres Pinos branch. I am not willing to recommend that the Southern Pacific Company's scheme for rehabilitation of the present station building should be endorsed and be made effective by an order of this commission. After careful consideration of the testimony and exhibits as presented in this case, I am of the opinion and find as a fact that the present passenger station facilities as provided by the Southern Pacific Company at the station of Gilroy are inadequate and not in keeping with the importance of the patronage derived by the defendant company from this locality. While it is true that a decrease in passenger earnings has been reflected by the statistics presented covering the last three years there is evidence indicating a substantial and continued increase in the population immediately surrounding the city of Gilroy and the passenger traffic of the defendant company will be increased by such growing population. The present station facilities have served the community for some forty-seven years and no substantial improvements have been made in the station building since its erection. Gilroy is a junction point serving the Tres Pinos branch on which are located the stations of Hollister and Tres Pinos and the development of these cities and their adjacent population will increase the passenger traffic requiring accommodation at the station of Gilroy.

I shall recommend that plans be submitted to this commission covering the erection of a passenger depot of lath and plaster or of concrete, hollow tile or of other suitable material, satisfactory to this commission, and designed in the so-called Mission style. I am of the opinion that it is reasonable and just to order the defendant to expend for such structure a sum of not less than ten thousand dollars (\$10,000.00). Such passenger depot will adequately serve the present and reasonable future needs of the city of Gilroy and also those of the patrons of the defendant company on the Tres Pinos branch using such depot as a point of transfer.

I submit herewith the following form of order:

ORDER.

A formal hearing having been held at Gilroy in the above entitled proceeding on September 29, 1916, the matter having been duly submitted and the commission being fully advised in the premises,

It is hereby ordered that the defendant shall within sixty (60) days from the service on it of this order, present to this commission for its approval, plans for a passenger depot to be built at Gilroy and shall within six (6) months after the approval of such plans by this commission erect a passenger depot of lath and plaster, or of concrete, hollow tile, or of some similar class of construction and of such style, type and design as shall be approved by this commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of January, 1917.

DECISION No. 4024.

IN THE MATTER OF THE APPLICATION OF BAY SHORE RAILROAD
COMPANY FOR AUTHORITY TO TEMPORARILY DISCONTINUE
OPERATION.

Application No. 2659.

Decided January 18, 1917.

Owing to extremely light travel and the fact that there are no permanent residents on the line of applicant, it is granted permission to continue in effect the temporary suspension of its line of railway until May 1, 1917.

Read G. Dilworth, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application on behalf of Bay Shore Railroad Company requesting the approval of this commission to a temporary suspension of operation until May 1, 1917.

A public hearing was held at San Diego on December 20, 1916, before Examiner Encell; the matter was submitted and is now ready for decision.

Bay Shore Railroad Company operates an electric railroad in the city of San Diego, county of San Diego, approximately 2.83 miles in length. The line commences at the Ocean Beach terminal of the Point Loma Railroad and runs through Mission Beach, a narrow strip of beach extending between the Pacific Ocean and a shallow body of water known as False Bay.

Mission Beach, through which the railroad operates, is being developed as a summer resort and has no permanent residents. Service on this line was inaugurated on July 15, 1916, and the following is a record of passengers carried since that date:

	Number of passengers	Revenue
July 15 to 31, 1916.....	4,621	\$231 05
August, 1916	5,989	299 45
September, 1916	2,389	119 45
October, 1916	365	18 25
November, 1916	220	11 00

No protestants against the temporary abandonment of service appeared at the hearing.

In view of the extremely light traffic during the winter months and the further fact that there are no permanent residents dependent upon the maintenance of regular scheduled service, we are of the opinion that the application should be granted.

ORDER.

Bay Shore Railroad Company, a corporation, having made application to this commission for authority to temporarily discontinue operation until May 1, 1917, and a public hearing having been held and the commission being fully advised in the premises,

It is hereby ordered that this application be, and the same hereby is, granted.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4025.

IN THE MATTER OF THE APPLICATION OF HANFORD GAS AND POWER
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE
OF BONDS.

Application No. 2639.

Decided January 18, 1917.

Original order authorized applicant to issue \$70,000.00 face value of bonds, \$50,000.00 face value of which were to be issued immediately, the balance only under supplemental order, such order is now amended to provide that the entire authorization may be issued at the present time, \$40,000.00 to retire outstanding bonds, the balance for additions and betterments to plant.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this commission by Decision No. 3967, dated December 29, 1916, authorized applicant herein to issue \$70,000.00 face value of 6 per cent twenty-year bonds at not less than 98 per cent of their face value; and

Whereas said Decision No. 3967, dated December 29, 1916, authorized the company to sell at this time \$50,000.00 face value of said bonds, the remaining \$20,000.00 face value of said bonds to be sold pursuant to such supplemental orders as the commission may issue; and

Whereas on January 16, 1917, applicant herein requested this commission to modify said Decision No. 3967, dated December 29, 1916, so as to permit it to sell all of the \$70,000.00 face value of bonds at the face value thereof; and good cause appearing,

It is hereby ordered that the condition of the order found in said Decision No. 3967, dated December 29, 1916, reading:

"It is further ordered that said applicant be and it is hereby authorized to now issue \$50,000.00 face value of its said bonds, and from the proceeds of the sale thereof use \$40,000.00 for the payment of \$40,000.00 face value of bonds now outstanding, but only upon the surrender and cancellation of said bonds; and apply the remainder of said proceeds thereof toward the improvement of its facilities and service by installing the improvements shown in schedule attached hereto; and hereafter to issue \$20,000.00 face value of its said bonds upon supplemental orders hereafter to be entered from time to time, upon a showing satisfactory to the commission, of progress in the construction of said improvements and in the procuring of new business, and use the proceeds thereof for installing said improvements."

Be and the same is hereby amended so as to read:

"It is further ordered that said applicant shall sell the aforesaid \$70,000.00 face value of bonds at not less than the face value thereof and use \$40,000.00 of the proceeds for the payment of \$40,000.00

face value of bonds now outstanding and to use the remainder of said proceeds or such part thereof as may be necessary to install the extensions, additions and betterments, set forth in Exhibit 'B' attached to the application herein."

It is hereby further ordered that condition "3" of the order found in Decision No. 3967, dated December 29, 1916, reading:

3. "The authority to issue the \$50,000.00 in bonds shall apply only to such bonds as may be issued within ninety (90) days after date of supplemental order approving applicant's mortgage or deed of trust. The time within which other bonds may be issued hereunder will be governed by supplemental order."

Be and the same is hereby amended so as to read:

3. "The authority hereby granted shall apply only to such bonds as may be issued on or before May 1, 1917."

It is hereby further ordered that the order found in said Decision No. 3967, dated December 29, 1916, shall remain in full force and effect except as modified by this supplemental order.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4026.

WESTERN ASSOCIATION OF SHORT LINE RAILROADS

vs.

E. M. HACKETT and J. A. DEBARRE, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF WICHITA TRANSPORTATION COMPANY.

Case No. 827.

Decided January 18, 1917.

BY THE COMMISSION.

ORDER.

In accordance with mandate issued by the Supreme Court of California in the case of *Western Association of Short Line Railroads, petitioner, vs. Railroad Commission of the State of California, respondent*, S. F. 7614, by judgment rendered on December 14, 1916, as modified by order of January 11, 1917,

It is hereby ordered that E. M. Hackett and J. A. Debarre, copartners doing business under the firm name and style of Wichita Transportation Company, defendants in the above entitled proceeding, be and the same are hereby ordered to file with the Railroad Commission forthwith their schedules of rates, fares, charges and classifications, charged and collected by said defendants in their service as a common carrier of freight in San Diego County, California.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4027.

UNITED RAILROADS OF SAN FRANCISCO
vs.
PENINSULA RAPID TRANSIT COMPANY.

Case No. 835.

Decided January 18, 1917.

BY THE COMMISSION.

ORDER.

In accordance with mandate issued by the Supreme Court of California in the case of *United Railroads of San Francisco, petitioner, vs. Railroad Commission of the State of California, respondent*, S. F. No. 7641, by judgment rendered on December 14, 1916, as modified by judgment rendered on January 11, 1917,

It is hereby ordered that Peninsula Rapid Transit Company, defendant in the above entitled proceeding, be and the same is hereby ordered to file with the Railroad Commission forthwith its schedules of rates, fares, charges and classifications, charged and collected by said company in its service as a common carrier of passengers between the city and county of San Francisco and the city of San Mateo.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4028.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF KERN FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A HIGHWAY CROSSING OF THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY ON THE SOUTH BOUNDARY OF SECTION 36, TOWNSHIP 25 SOUTH, RANGE 25 EAST, MOUNT DIABLO BASE AND MERIDIAN.

Application No. 2347.

Decided January 18, 1917.

Applicant granted permission to construct, at its own expense, a road crossing at grade across tracks of Southern Pacific Company, provided, two private crossings in the immediate vicinity are closed to traffic.

J. O. Hart, for Applicant.

George D. Squires, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

A public hearing in this proceeding was held at Bakersfield on October 10, 1916, the evidence being taken by Examiner Encell.

The crossing covered by this application is located on the south boundary of section 36, township 25 south, range 25 east, Mount Diablo base and meridian, and will connect an east and west road lying east of the railroad with an east and west road and the state highway lying west of the railroad. The state highway parallels the railroad.

The site of the crossing asked for is in a flat, open country with an unobstructed view in all directions. The tops of the railroad rails are about two feet above the road at the right of way line. The country west of the railroad is under high cultivation and is divided into small tracts. The land east of the railroad is in large tracts at the present time, but will probably be subdivided in the near future.

From the evidence it appears that the Southern Pacific Railroad Company is not opposed to the granting of this crossing, providing two private crossings, one on each side of the crossing asked for, are closed to travel. One of these crossings is seldom used and the gates leading to it are kept locked. Those interested are willing to close these two private crossings if a public crossing is granted. From the evidence it appears that the application should be granted.

ORDER.

County of Kern, State of California, having applied to the Railroad Commission for permission to construct a public road at grade across the tracks of the Southern Pacific Railroad Company on the south line of section 36, township 25 south, range 25 east, Mount Diablo base and meridian, as shown on the map attached to the application, and a public hearing having been held, and it appearing that the application should be granted subject to certain conditions.

It is hereby ordered that permission be and the same is hereby granted county of Kern, State of California, to construct a public highway crossing at grade over the tracks of the Southern Pacific Railroad Company at the point and in the manner applied for, subject to the following conditions and not otherwise, to wit:

1. The entire expense of constructing the crossing shall be borne by the applicant.
2. The expense of maintaining the crossing up to a line two (2) feet outside the rails of Southern Pacific Railroad Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a line two feet outside thereof shall be borne by the Southern Pacific Railroad Company.
3. The crossing shall be constructed of a width not less than twenty-four (24) feet and with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

4. The two private crossings, one on each side of the crossing applied for, shall be abandoned and closed to travel.

5. The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if in its judgment the public convenience and necessity demand such action.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4029.

PLUMAS LIGHT AND POWER COMPANY

vs.

GREAT WESTERN POWER COMPANY.

Case No. 1017.

IN THE MATTER OF THE APPLICATION OF THE GREAT WESTERN POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF CERTAIN RIGHTS UNDER A FRANCHISE GRANTED BY THE COUNTY OF PLUMAS, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF A CERTAIN ELECTRIC POWER LINE IN SAID COUNTY OF PLUMAS.

Application No. 2634.

Decided January 18, 1917.

BY THE COMMISSION.

ORDER.

Great Western Power Company having, in accordance with the order heretofore made in these proceedings on the eleventh day of January, 1917, filed a stipulation that said company, its successors and assigns, will never claim before the Railroad Commission of the State of California, or any court or public body, a value for the rights and privileges granted to said company by Ordinance No. 182 of the county of Plumas, in excess of the actual cost to said company of acquiring said rights and privileges,

It is hereby ordered that said stipulation be, and the same hereby is, approved.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4030.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION ESTABLISHING THE RATES, RULES, REGULATIONS AND PRACTICES TO BE CHARGED AND OBSERVED BY SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY IN THE SALE AND DISTRIBUTION OF GAS AND ELECTRIC ENERGY.

Application No. 1925.

TAXPAYERS' PROTECTIVE LEAGUE

vs.

SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Case No. 874.

Decided January 18, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that the rates to be charged by San Diego Consolidated Gas and Electric Company for series municipal street lighting shall be as follows:

Schedule 10. Series Municipal Street Lighting.

Character of Service.

This schedule applies to all lighting districts, cities, towns or supervisory districts, the schedule including the installation and operation of series incandescent lights in which the company furnishes the original installation and maintains such system.

Schedule 10-A.

Rates.

Midnight schedule—2,200 hours. Per lamp per month. Lamps burning from dusk to midnight every night.

Candle power of lamps	Installation of 25 lamps or under	Installation of 25 to 50 lamps	Installation of 51 to 100 lamps	Installation of over 100 lamps
60 -----	\$1 80	\$1 65	\$1 50	\$1 40
80 -----	2 00	1 90	1 65	1 55
100 -----	2 15	2 05	1 80	1 65
250 -----	2 95	2 70	2 40	2 20
400 -----	3 75	3 35	3 00	2 75
600 -----	4 75	4 25	3 75	3 50

Schedule 10-B.

1 a. m. schedule—2,600 hours. Per lamp per month. Lamps burning from dusk to 1 a.m., every night.

Candle power of lamps	Installation of 25 lamps or under	Installation of 25 to 50 lamps	Installation of 51 to 100 lamps	Installation of over 100 lamps
60 -----	\$1 90	\$1 80	\$1 60	\$1 50
80 -----	2 20	2 10	1 85	1 75
100 -----	2 40	2 25	1 95	1 85
250 -----	3 20	2 95	2 50	2 45
400 -----	4 00	3 60	3 10	3 00
600 -----	5 00	4 50	4 00	3 75

Schedule 10-C.

All night schedule—4,000 hours. Per lamp per month. Lamps burning all night every night.

Candle power of lamps	Installation of 25 lamps or under	Installation of 25 to 50 lamps	Installation of 51 to 100 lamps	Installation of over 100 lamps
60 -----	\$2 40	\$2 30	\$2 05	\$1 75
80 -----	2 85	2 60	2 30	2 00
100 -----	3 05	2 80	2 50	2 25
250 -----	3 80	3 45	3 15	2 90
400 -----	4 55	4 10	3 85	3 60
600 -----	5 50	5 00	4 75	4 50

Minimum Charge.

Minimum charge is based on the number and candle power of lamps furnished.

Lamp Service.

Company furnishes all lamp renewals and installs the same in the system.

In all other respects the order of November 3, 1916, in the above entitled proceedings shall remain in full force and effect.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4031.

ROSENWALD AND KAHN ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 234.

Decided January 18, 1917.

BY THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

It is hereby ordered that the application for rehearing filed by defendant herein be and the same is hereby denied.

Dated at San Francisco, California, this 18th day of January, 1917.

Decision No. 4032, grade crossing; not printed. See end of volume.

DECISION No. 4033.

IN THE MATTER OF THE APPLICATION OF THE SIERRA ELECTRIC
POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF
CAPITAL STOCK AND BONDS.

Application No. 2270.

Decided January 18, 1917.

BY THE COMMISSION.

ORDER.

Petitioner in the above entitled proceeding having filed herein its written request that said proceeding be dismissed without prejudice,
It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 18th day of January, 1917.

DECISION No. 4034.

IN THE MATTER OF THE APPLICATION OF PEOPLES WATER COM-
PANY FOR REORGANIZATION.

Application No. 1531.

Decided January 20, 1917.

Authorization given for transfer of property formerly known as Peoples Water Company to East Bay Water Company for a consideration of \$9,861,672.43 face value of 5½ per centum 30-year bonds, \$4,437,600.00 par value, class A preferred stock, \$2,958,400.00 par value, class B preferred stock and common stock of the par value of \$100,000.00, the property transferred to include all cash at present in the treasury of the company in addition to the sum of \$478,867.88, being the difference in the total face value of bonds received and the bonds to be disbursed under reorganization plans.

The commission's approval is asked of the various items of expense incurred in connection with reorganization work; it is held that the commission is not called upon to either approve or disapprove such items, however, the capitalization of and placing of such burden on the water rate payers will not be permitted. Order made requiring the filing of a stipulation to the effect that the aggregate sum expended for reorganization purposes shall be amortized in whole or in part out of the income of the company in such manner as the commission may direct.

E. S. Heller, W. E. Creed and A. G. Tasheira, for Applicant, the reorganization committee of Peoples Water Company.

Isaac Strassburger, for Protestants.

EDGERTON, *Commissioner*.

SUPPLEMENTAL OPINION.

This commission has heretofore in this matter, by original order and supplements thereto, fixed the value of the plant of Peoples Water Com-

pany for capitalization purposes, has reviewed the income and operations of applicant and has authorized the issuance of stocks and bonds by a new corporation in exchange for all of the property of Peoples Water Company, as follows:

First mortgage 5½ per cent 30-year gold bonds.....	\$9,128,000 00
Six per cent cumulative preferred stock.....	4,440,000 00
Common stock.....	3,460,000 00

Since the above authorization by the commission, changes have been made in the reorganization plan and we are now asked to authorize the following:

First mortgage 5½ per cent 30-year gold bonds.....	\$9,861,672 43
Six per cent cumulative preferred stock, class A.....	4,437,600 00
Six per cent noncumulative preferred stock, class B.....	2,958,400 00
Common stock.....	500,000 00

It will be noted that, as now presented, the amount of bonds to be issued has been increased by \$733,672.43. However, it is claimed that since the commission valued the plant at \$14,100,000.00, there has been expended out of income for betterments and additions to plant \$685,000.00.

While it can not be definitely determined at this time that this entire expenditure is properly included in capital account, I am satisfied that the larger portion of such expenditures has resulted in additions and betterments to plant and that the issue of \$9,861,672.43, face value of bonds, at this time is reasonable.

It will also be noted that \$500,000.00 par-value of stock has been removed from what was common stock and an equal amount of par created as common stock. But applicant states that while it desires that some common stock be authorized, it will leave to the judgment of the commission the amount thereof. I am satisfied that this common stock is desired for the purpose of distribution among stockholders of Peoples Water Company, to represent whatever equities may be left after the bonds and preferred stock have been cared for.

I believe that there is no necessity for the issuance of \$500,000.00 par value of this common stock, and recommend that authority be given to issue \$100,000.00 par value.

We are asked to approve certain expenses of reorganization, which include fees to attorneys, reorganization committeemen and trust companies. I do not believe that the commission is called upon to either approve or disapprove these expenses.

Something over two years ago Peoples Water Company, being in financial straits and unable to meet its obligations, was informally placed in the control of a set of men representing the various bondholders, other creditors and stockholders of the company. Almost

continuously this and other committees sought to bring about agreement whereby Peoples Water Company could be reorganized upon a basis of reasonable capitalization. During the protracted negotiations among the various interested parties, expenses were incurred and paid out of the treasury of Peoples Water Company. These expenses aggregate the sum of \$398,036.70 and include the cost of foreclosure sale, settlement of litigation, expenses of reorganization committee and costs of a valuation hearing before the commission.

The members of the reorganization committee have not been paid for their services and we are asked to make an order, approving the payment to them of \$71,000.00; for their attorneys we are asked to approve the payment of \$30,000.00, their secretary \$13,000.00, and the depositaries of the various securities, Savings Union Bank and Trust Company and Oakland Bank of Savings \$25,000.00 and \$4,000.00, respectively. This totals \$143,000.00 claimed to be due but unpaid expenses of reorganization.

The commission is not in a position at this time, intelligently to pass upon the question of whether the expenses of reorganization are proper or excessive. A large part of these expenses have already been paid and it is impossible adequately to consider the remainder without giving consideration to those already disposed of. Furthermore, all of these expenses, in effect, have been agreed to by all of the parties owning this property in what is called the reorganization agreement. On the other hand, I do not believe that these reorganization expenses should be charged against the public. Obviously the public was not at fault and can not be held responsible for the financial difficulties of this company; in fact, it must be conceded that reorganization became necessary because of the acts of the owners of the property.

I recommend, therefore, that instead of analyzing the reorganization expenses with a view to approving or disapproving of them in whole or in part, we place the responsibility for their payment where it belongs, to wit, with the owners of the property, but at the same time that we insist that these expenses shall not become a charge against the public.

This may be brought about by authorizing the sale of this property to a new corporation for a total issue of stocks and bonds in return for which the new company should receive the plant and certain cash for its treasury, and imposing as a condition of this order that the new company file a stipulation with the commission agreeing that it will at such times, in such amounts and in such manner as the commission may hereafter order, provide for the amortization of these reorganization expenses in whole or in part out of the income of the company.

The entire plant and all of the bonds of Peoples Water Company have been sold in foreclosure to Mr. E. S. Heller, who purchased the same on

behalf of the owners of bonds, securities and stock of the Peoples Water Company. Mr. Heller now holds a certificate of sale for this property and is prepared to deliver the same to the new corporation, East Bay Water Company.

Herewith form of order:

ORDER.

Application having been made in the above entitled proceeding for an order authorizing the transfer of certain property, formerly belonging to Peoples Water Company, to a new corporation, East Bay Water Company, and authorizing East Bay Water Company to execute trust deed of its property as security for the issuance of bonds and for authority to immediately issue certain bonds and stock, and a public hearing having been had and the commission being fully advised in the premises,

It is hereby ordered by the Railroad Commission of the State of California, that Mr. E. S. Heller is hereby authorized to sell, transfer and convey unto East Bay Water Company all of the property, whether real, personal or mixed, heretofore owned by Peoples Water Company, which said property is fully and particularly described in that certain judgment of foreclosure and sale rendered by the Superior Court of the county of Alameda, in that certain proceeding entitled *Merchants Trust Company of San Francisco* (a corporation), *plaintiff, vs. Peoples Water Company* (a corporation), *et al., defendants*, numbered 46,978, Department No. 2, to which judgment reference is made for a particular description of said property; in addition to which, said E. S. Heller shall cause to be delivered to said East Bay Water Company in addition to the cash contained in the treasury of what was once Peoples Water Company cash \$478,867.88, said sum being the difference between the total face value of bonds which Mr. Heller receives and the bonds he must disburse in accordance with the reorganization plan.

East Bay Water Company is hereby authorized to issue and deliver to said E. S. Heller, or his nominees, in consideration of the transfer of the property above described by said E. S. Heller to said company, first mortgage 5½ per cent 30-year gold bonds of a par face value of \$9,861,672.43; 6 per cent cumulative preferred stock, class A, of a par value of \$4,437,600.00; 6 per cent noncumulative preferred stock, class B, of a par value of \$2,958,400.00 and common stock of the par value of \$100,000.00.

East Bay Water Company is further authorized to execute a mortgage or deed of trust of all of its property as security for the payment of \$15,000,000.00 face value of 5½ per cent 30-year gold bonds; said mortgage or deed of trust to be in substantial conformity with the draft of mortgage or deed of trust, a copy of which is on file in these proceedings.

Provided that before this order shall become effective East Bay Water Company shall file a stipulation, duly authorized by the board of directors, to be approved by the commission, to the effect, that it, said company, will at such times, in such amounts, and in such manner as the commission may order amortize out of income the reorganization expenses referred to in the opinion preceding this order.

Provided, further, that E. S. Heller shall distribute the bonds, stocks and cash which come into his hands under the authorization of this order in conformity with the reorganization agreement, as evidenced by a copy of said agreement, and also in conformity with a written statement filed in these proceedings entitled Peoples water reorganization statement of bonds and other securities to be issued in carrying out the reorganization plan, and said E. S. Heller shall report such disbursement to this commission within a period of ninety (90) days from the date of this order.

This order to become effective only upon payment of fee prescribed by section 57 of the Public Utilities Act, as amended.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1917.

DECISION No. 4035.

IN THE MATTER OF THE APPLICATION OF CORCORAN WATER AND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2390.

Decided January 20, 1917.

Supplemental order approving applicant's proposed mortgage securing bonds heretofore authorized.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission by Decision No. 3606, dated August 31, 1916, authorized applicant herein to execute a mortgage or deed of trust securing the payment of \$15,000.00 face value of 6 per cent serial bonds, provided applicant submit to this commission for approval prior to its execution a copy of its proposed mortgage or deed or trust; and

Whereas pursuant to said Decision No. 3606, dated August 31, 1916, applicant herein, on January 15, 1917, filed with this commission a copy

of its proposed mortgage or deed of trust, said mortgage or deed of trust having been marked Exhibit 1; and

Whereas applicant proposes to execute its mortgage or deed of trust to Union Trust and Savings Bank of Pasadena and Los Angeles Trust and Savings Bank of Los Angeles, trustees; and

Whereas the proposed mortgage or deed of trust secures the payment of \$15,000.00 par value of 6 per cent serial bonds, dated October 1, 1916, and maturing as follows:

\$1,000 00	-----	October 1, 1918
\$1,000 00	-----	October 1, 1919
\$1,000 00	-----	October 1, 1920
\$1,000 00	-----	October 1, 1921
\$2,000 00	-----	October 1, 1922
\$2,000 00	-----	October 1, 1923
\$2,000 00	-----	October 1, 1924
\$2,500 00	-----	October 1, 1925
\$2,500 00	-----	October 1, 1926

And whereas the proposed mortgage or deed of trust further provides that the bonds are to be issued in the denomination of \$500.00 each; that \$10,000.00 face value of the bonds are to be issued forthwith; that the remaining \$5,000.00 of bonds may be issued for additions and betterments, provided applicant's net earnings are one and one-half per cent in excess of the interest charges on the bonds outstanding plus the interest on any indebtedness which may be a prior lien to the mortgage or deed of trust, plus the interest on the bonds to be issued; that the bonds are subject to redemption upon the payment of the face value thereof, the accrued interest, and a premium of two and one-half per cent; and that in case of default, the holders of not less than 25 per cent in the amount of bonds outstanding may require the trustee to declare the principal of the bonds due and payable; and good cause appearing,

It is hereby ordered that Corcoran Water and Gas Company be, and hereby is, given authority to execute a mortgage or deed of trust in substantially the same form as the mortgage or deed of trust filed with this commission, January 15, 1917, said mortgage or deed of trust having been marked Exhibit 1 and attached to the application herein.

The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

It is hereby further ordered that Corcoran Water and Gas Company be given authority and hereby is given authority to issue thirty \$500.00 6 per cent bonds in lieu of one hundred and fifty \$100.00 6 per cent bonds authorized by Decision No. 2606, dated August 31, 1916.

It is hereby further ordered that the order found in said Decision No. 3606, dated August 31, 1916, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this 20th day of January, 1917.

DECISION No. 4036.

AGRICULTURAL CHEMICAL WORKS ET AL.

vs.

CITY OF LOS ANGELES ET AL.

Case No. 774.

Decided January 20, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the complainants do not desire to proceed in this case,

It is hereby ordered that the complaint in this proceeding be, and the same is hereby dismissed.

Dated at San Francisco, California, this 20th day of January, 1917.

DECISION No. 4037.

IN THE MATTER OF THE APPLICATION OF JESSE S. HARKER AND EDNA M. HARKER TO SELL AND OF JEAN H. BAKEMAN TO PURCHASE THE MELVIN PLACE WATER PLANT, LOCATED IN LOS ANGELES COUNTY, CALIFORNIA.

Application No. 2701.

Decided January 20, 1917.

Application to transfer a small water utility in Los Angeles County for certain lands in Utah, granted.

Eugene A. Holmer, for Applicants.

BY THE COMMISSION.

OPINION.

A public hearing in this proceeding was held at Los Angeles on January 11, 1917, the testimony being taken by Myron Westover, examiner.

The property involved, which is more fully described in the order, is known as the Melvin Place water plant and is located just out of Los Angeles, near Vernon, and serves about 150 consumers on an average.

The parties wish to exchange the property for about 520 acres of land in Juab County, Utah. It appears from the testimony that the seller wishes to devote his entire attention to other interests and that the purchaser is better able financially to make extensions and improvements in the service than the seller. The purchaser showed familiarity with the obligations of a public utility and a willingness to assume and faithfully discharge them. The commission has not valued the plant and the value of the Utah land does not appear.

The property has been conveyed before under authority of Decision No. 272 of October 14, 1912, and Decision No. 1447 of April 16, 1914. (See Opinions and Orders of Railroad Commission of California, Vol. 1, p. 727, and Vol. 4, p. 798.)

It appears that public convenience and necessity will be served by granting the application.

ORDER.

Jesse S. Harker, Edna M. Harker and Jean H. Bakeman having applied to the Railroad Commission for an order authorizing the conveyance of Melvin Place water plant to Jean H. Bakeman in exchange for lands in Juab County, Utah, the value whereof does not appear, and the commission finding that public convenience and necessity will be served by such conveyance,

It is hereby ordered that Jesse S. Harker and Edna M. Harker be and they are hereby authorized to convey to Jean H. Bakeman in exchange for lands in Juab County, Utah, referred to in the petition herein, said Melvin Place water plant more particularly described as follows:

Lots 4 and 5 of the Melvin Place, together with a certain water plant or system, including a house, engine house, tanks, pump, pipes and piping, situate thereon and connected therewith, and all franchises, easements, rights of way and appurtenances appertaining to or connected with the said water plant or system, more particularly described in a deed dated May 27, 1910, between E. W. Payne and his wife, and Mrs. L. P. Melvin and "Home Builders," a corporation, which document is now of record in the office of the county recorder of Los Angeles County.

Upon the execution and delivery of a deed of conveyance the parties hereto shall within ten days thereafter file a certified copy thereof with this commission.

Dated at San Francisco, California, this 20th day of January, 1917.

DECISION No. 4038.

IN THE MATTER OF THE APPLICATION OF FRESNO CANAL AND LAND
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2636.

Decided January 20, 1917.

BY THE COMMISSION.

ORDER.

On request of petitioner in the above entitled proceeding, made in open court at a hearing held in Fresno, California, on January 19, 1917, *It is hereby ordered* that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 20th day of January, 1917.

DECISION No. 4039.

A. W. HORWEGE, AS MAYOR OF THE CITY OF PETALUMA

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 764.

MAX ROSENBERG ET AL.

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 935.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR A GENERAL DETERMINATION OF AND ADJUSTMENT OF RATES TO BE CHARGED BY APPLICANT FOR GAS SUPPLIED TO THE INCORPORATED TOWNS OF SANTA ROSA, PETALUMA AND SEBASTOPOL, AND THE INHABITANTS THEREOF, THE UNINCORPORATED TOWN OF COTATI, AND THE INHABITANTS THEREOF; AND TO THE TERRITORY CONTIGUOUS TO ITS GAS DISTRIBUTION MAIN RUNNING FROM ITS SANTA ROSA GAS PLANT TO PETALUMA AND TO SEBASTOPOL, AND THE CONSUMERS SUPPLIED THEREFROM; AND FOR A CONSOLIDATION WITH THIS APPLICATION OF CASE NO. 935.

Application No. 2419.

Decided January 20, 1917.

After investigation the following schedules of rates established for gas in the Petaluma and Santa Rosa districts of respondent company: \$1.50 per 1,000 cubic feet for first 5,000; \$1.00 per 1,000 cubic feet for next 5,000; \$.80 per 1,000 cubic feet for all over 10,000. Monthly minimum, \$.50 per meter. Optional service for incubator and brooder service: \$1.50 per 1,000 cubic feet if consumption is less than 6,000 and \$1.00 per 1,000 cubic feet if consumption exceeds or equals 6,000. Monthly minimum \$.50 per meter; maximum charge for 6,000 cubic feet or less per month, \$6.00.

Analysis of respondent's operating expenses show an unusually large percentage of unaccounted for gas amounting to over 35 per cent, such an amount is considered entirely too large and should be reduced. Certain expenditures made by respondent for operation are not considered as having been economically or efficiently made and a reasonable return thereon is not merited.

A form of rate schedules which apparently charges more for 9,000 than for 10,000 cubic feet consumption for domestic consumers does not equitably apportion the charges, and is inconsistent with the general rates applied by gas utilities within this state.

G. P. Hall, for City of Petaluma.

L. R. Lambert, for Max Rosenberg.

C. P. Cutten, for Pacific Gas and Electric Company.

DEVLIN, *Commissioner*.

OPINION.

The complaint in Case No. 764 was filed by Mr. A. W. Horwege, as mayor of the city of Petaluma, on behalf of said city of Petaluma and its inhabitants against the Pacific Gas and Electric Company, hereinafter referred to as the company, alleging that the rates for gas furnished to said city and its inhabitants are excessive and unreasonable. The answer of the defendant denies the material allegations in the complaint. Hearings were held in this case and evidence was submitted by the interested parties and the commission's engineering department. The case was submitted on January 5, 1916. Following the submission and prior to an order in this case, complaint was filed by residents of the city of Santa Rosa against the rates, and as the gas supplied to the two towns is produced at the same plant and the operation of the two districts are so closely related, the commission issued an order setting aside the submission of the case and consolidating it with Case No. 935 and Application No. 2419.

The complaint in Case No. 935 was filed by Max Rosenberg and thirty-one other persons of the city of Santa Rosa against the company, complaining, in effect, that the rates for gas furnished to the complainants in the city of Santa Rosa are unjust and unreasonable. In this case also the defendant denies that the rates, or any of them, are unjust and unreasonable. Following the first hearing in this case, the defendant asked permission to amend its pleadings to request that the Railroad Commission fix rates for the entire territory served by its system supplying Santa Rosa and Petaluma and rural territory.

Application No. 2419 was filed by the company on July 13, 1916, and requested the Railroad Commission to make a general determination and adjustment of the rates to be charged by it for gas supplied to the towns of Santa Rosa, Petaluma, Sebastopol and Cotati, and the inhabitants of said towns and to all consumers supplied with gas by applicant in rural territory between the various cities.

By stipulation of the parties the three matters were consolidated for hearing and decision, and it was further stipulated that evidence previously introduced in the Petaluma Case (No. 764) was to be considered as part of the evidence in the consolidated cases. Additional testimony and evidence covering the question of capital, operating statistics and expenses and reasonableness of the rates were introduced by the parties and the commission's gas and electric department.

The production and distribution of artificial gas for lighting purposes in Santa Rosa dates back to 1872 when high-grade gasoline gas was manufactured. From that date until 1902, many changes were made in the plant and method of gas manufacture, and several changes in the management occurred. In 1901 Pacific Lighting Corporation, later known as the Central Gas and Electric Company, took over the Santa Rosa properties, and the following year a transmission main was laid to Petaluma, thus joining the two systems. About the same time the company commenced the manufacture of oil gas in place of coal gas.

The gas business in Petaluma dates still further back, to 1862, but apparently was carried on with little success. After many changes in management, it was taken over by the California Gas and Electric Corporation in 1900, and later, in 1906, was consolidated with the company at Santa Rosa and several other utilities, forming the Pacific Gas and Electric Company. Following the joint operation of the Petaluma and Santa Rosa systems in 1902, the Petaluma production plant was abandoned and the Santa Rosa plant enlarged.

The growth of the system and the business has been steady since the consolidation; the plant output has increased from 15,000,000 cubic feet in 1902 to over 110,000,000 cubic feet in 1915. Records of the company show the following increases in capital, expenses, etc., from 1907 to 1915 for the entire system, including in addition to the two main cities of Petaluma and Santa Rosa, the town of Sebastopol which was served in 1910 for the first time:

*Petaluma and Santa Rosa Gas Districts. Capital, Expense and Statistics.
Company's Report.*

	1907	1915
Capital based on J. G. White & Co. valuation.....	\$264,120 92	\$466,094 20
Gross revenue	\$50,670 82	\$106,941 40
Expense not including insurance.....	46,146 23	74,614 53
Net for interest, depreciation and insurance.....	\$4,524 59	\$32,326 87
Number of consumers December 31st.....	1,973	3,757

From the above figures it appears that a considerable growth has occurred in the company's business, but, according to the company's exhibits, the business has not been remunerative. In fact, in 1915, when the number of consumers had reached 3,757, the net return on the value claimed was only 6.93 per cent for interest, depreciation and insurance.

A general consideration of the size and business of this system would lead one to conclude that the company should be earning a very reasonable profit on its investment, as the rates are as high as the average for plants of similar size, and the consumers per mile of mains about the average.

The present system serving the towns of Petaluma, Santa Rosa and Sebastopol consists of an oil gas generating plant located in Santa Rosa, from which gas is distributed at low pressure in that city. A high pressure transmission main extends from Santa Rosa to Petaluma, a distance of approximately 18 miles, and another line from Santa Rosa to Sebastopol. Gas is distributed along the two transmission lines at high pressure, and a medium high pressure distribution system is installed in Petaluma.

A slightly greater number of consumers are located in the Santa Rosa district, which includes Sebastopol, than in the Petaluma district, but the sales are practically equal in the two districts, due to the larger use of gas in the Petaluma district for the operation of brooders and incubators. The management and operation is divided into two districts, both being part of the Pacific Gas and Electric Company's system, and in both gas and electric service is rendered, from which it would appear that economy should result from the joint operation.

At the time the two systems were joined, the larger part of the business was in Santa Rosa, and the plant was apparently located in that town as a result, oil being delivered at Petaluma by barges and transported to Santa Rosa in tank cars. Were the joint system to be constructed today, unquestionably the logical location for the production plant would be Petaluma, as this location would result in a saving in excess of \$2,500.00 per year on freight charges alone. Whether at this time, a duplication of production facilities for the Petaluma district would be justifiable, is, however, at least questionable.

Mr. E. S. Bryant, assistant engineer of the Gas and Electric Department of the Railroad Commission, submitted an estimate of the historical reproduction cost new of these entire gas properties used in serving the combined districts. In the following table is included a summary of this valuation, together with a comparative reproduction estimate submitted by the company, based upon the J. G. White & Company

appraisal of December 31, 1911, plus net additions and betterments to date:

Comparison of Valuation.

	Historical reproduction cost, E. S. Bryant May 31, 1916	J. G. White & Co., plus additions and betterments, Dec. 31, 1915
Landed capital	\$13,257 00	\$15,750 00
Production	129,073 00	131,702 60
Transmission	68,202 00	60,855 42
Distribution—		
Mains	123,334 00	128,743 01
Services, meters and regulators	99,033 00	99,784 05
Stores and supplies	5,599 00	6,316 84
General	7,383 00	7,951 13
Construction work done but not segregated		21,307 99
Totals, not including working capital	\$445,881 00	\$472,411 04

The main differences in the two valuations are due to the lower overhead used by Mr. Bryant and to the fact that the J. G. White & Company appraisal included paving over mains not paid for by the company at the time of the appraisal. The testimony shows that Mr. Bryant's valuation of mains should be increased approximately \$950.00 to correct the price of cast iron mains used.

Evidence was introduced by the company to the effect that the amounts allowed by Mr. Bryant for casualty insurance were less than those based upon present rates, but nothing was introduced to the effect that the company had in the past expended any such percentages as testified to, and considering the entire evidence I believe the overhead percentage allowed by Mr. Bryant to be sufficient in estimating the historical reproduction cost.

The company introduced statements of operating expenses and statistics of the entire district for the years 1913 to 1915, inclusive. Similar data was introduced for the two districts separately, but it was impossible to directly segregate expenses between incorporated and unincorporated territory.

Mr. L. S. Ready, assistant engineer of the Gas and Electric Department of the Railroad Commission, submitted a general analysis of the operating expenses and statistics reported by the company, together with a comparison of these expenses with the operations of the gas plant at Pomona, California. While it is true, that identical operating conditions were not shown, still the evidence showed sufficient similarity of conditions to make the two conditions fairly comparable. The two plants have practically the same number of consumers, miles of mains, type of system and total sales. This analysis shows that the total operating expenses per 1,000 cubic feet sold for 1915 were approximately

\$1.11 in the Santa Rosa district as compared with 75 cents for the Pomona district, oil being estimated in each case at 90 cents per barrel.

The unit costs of operation of the Santa Rosa system appear approximately 50 per cent in excess of those at Pomona. The percentage of unaccounted-for gas was over 35 per cent in Santa Rosa as against 10 per cent at Pomona.

Mr. Ready made an estimate of the probable sales for the year 1917 and estimates of the reasonable economical operating output, unaccounted-for gas, and expenses based upon his analysis of the two comparative systems. His estimate for 1917 of operating expenses, based upon the reasonable operation of the plant, was 84 cents per thousand cubic feet sold. In view of the evidence as to the increase in the cost of oil, it seems that \$1.08 per barrel should be adopted as the probable cost, instead of 90 cents per barrel as estimated. With this correction, the operating expenses should not exceed 90 cents per thousand feet of gas sold.

While the company's earnings have undoubtedly been small, its own exhibits indicating earnings of but two or three per cent during the past ten years, still, I think the evidence justified Mr. Ready's conclusion, as testified to by him, that efficiency and economy have not been practiced to that degree that would absolve the company from responsibility for such small earnings. One fact strongly tending to support this view is the unusually and apparently unreasonably high percentage of unaccounted-for gas, totaling 35 per cent of production in 1915.

The company introduced testimony to the effect that peculiar and disadvantageous soil conditions are present in the Petaluma territory, and this is undoubtedly the fact, to which consideration has been given. I am not persuaded, however, that even with such soil conditions that the amount of unaccounted-for gas could not be materially reduced.

The fact that the company has expended during the past for operation the amounts reported, is not conclusive that such expenditures are reasonable and should have been made under economic and efficient operation; and logically it follows that even though such expenditures were made, but were not wisely, economically and efficiently made, that there should not be added to such operating expenses the amount of earnings necessary to produce a reasonable return upon the investment.

It appears from the estimated operating expenses testified to by Mr. Ready, and the valuation made by Mr. Bryant, increased for net additions and betterments plus the usual amount of working capital allowed by this commission, the company will earn during 1917 approximately 8.4 per cent for interest and depreciation on the entire district. With deduction of depreciation, which by reason of soil conditions already referred to, will be in excess of the amount of depreciation which

would otherwise be adequate, an earning of less than 6 per cent will result.

The net earnings upon a proportional capital chargeable to the city of Santa Rosa, based upon the sales to that city and on the same basis of operation, would be approximately 8 per cent if the rates charged by the Pacific Gas and Electric Company in Vallejo and San Rafael are applied. These rates result in an average return per thousand cubic feet sold, practically the same as now received by the company.

The present rates for gas in this district are as follows:

Schedule No. 12 and 20.

Light, Heat and Power Service.

RATE.

On the basis of monthly consumption per meter.

\$1.50 per 1,000 cubic feet if the consumption is less than 10,000 cubic feet.

\$1.25 per 1,000 cubic feet if the consumption equals or exceeds 10,000 cubic feet, but is less than 15,000 cubic feet.

\$1.00 per 1,000 cubic feet if the consumption equals or exceeds 15,000 cubic feet.

Minimum monthly charge, 50 cents per meter.

Schedule No. 13 and 21.

Optional Schedule for Incubator and Brooder Service.

RATE.

On the basis of monthly consumption per meter.

\$1.50 per 1,000 cubic feet if the consumption is less than 6,000 cubic feet.

\$1.00 per 1,000 cubic feet if the consumption equals or exceeds 6,000 cubic feet.

Minimum monthly charge, 50 cents per meter.

This form of rate which apparently charges more for 9,000 cubic feet consumption than for 10,000 for domestic consumers does not equitably apportion the charges and is inconsistent with the general rates applied by gas utilities.

The company has placed in effect the following rates in a number of its districts, which rates more uniformly apportion the charge and should encourage greater use by the larger consumers, although it fails to benefit the average consumer:

Schedule No. 31.

Light, Heat and Power Service.

RATE.

On the basis of monthly consumption of gas per meter.

\$1.50 per 1,000 cubic feet for the first 5,000 cubic feet.

\$1.00 per 1,000 cubic feet for the next 5,000 cubic feet.

\$0.80 per 1,000 cubic feet for all over 10,000 cubic feet.

Minimum monthly charge, 50 cents per meter.

An analysis of the sales to the various brooder and incubator consumers shows that in several instances the above rate will result in a

reduction in their present rates, but that for the majority of the smaller users a definite increase will result.

It appears advisable, considering the development of this business by the specific rate now in effect for this class of service, that it should be continued as an optional schedule for incubator and brooder service. The specific ruling should be made, however, that the maximum bill to be rendered for monthly consumptions of less than 6,000 cubic feet should be \$6.00.

It would appear from the fact that the rates in effect in these districts are as high as, and in some cases higher than rates on similar systems in the state, and that the sales in the city of Santa Rosa and Petaluma for domestic and general commercial service are below the average throughout the state, that the present rates are as high as the service is worth, or even higher than will result in the greatest sales and return. I believe that the rates provided in the proposed schedule included in the order in this case are just and reasonable and that the company must obtain increased revenue by an increase in its sales.

I submit the following form of order:

ORDER.

Public hearings having been held in the above entitled proceedings, and said proceedings having been regularly submitted and being now ready for decision, the Railroad Commission of the State of California hereby makes the following findings of fact:

1. The Railroad Commission finds that the rates for the service of gas of the Pacific Gas and Electric Company in the territory known as the Petaluma and Santa Rosa districts are unjust and unreasonable in so far as they differ from the rates herein established.

Basing its order on the foregoing findings of fact, and on each statement of fact contained in the opinion preceding this order,

It is hereby ordered as follows: Pacific Gas and Electric Company is hereby ordered to establish and file with the Railroad Commission of the State of California on or before February 10, 1917, the following rates for gas service of the same standard of quality now supplied and for which it has held itself out as supplying in the territory known as the Santa Rosa and Petaluma districts, which rates are found to be just and reasonable rates:

Schedule A.

Light, Heat and Power Service.

RATE.

On the basis of monthly consumption of gas per meter.
\$1.50 per 1,000 cubic feet for the first 5,000 cubic feet.
\$1.00 per 1,000 cubic feet for the next 5,000 cubic feet.
\$.50 per 1,000 cubic feet for all over 10,000 cubic feet.

Minimum monthly charge, 50 cents per meter.

Schedule B.*Optional Schedule for Incubator and Brooder Service.***RATE.**

On the basis of monthly consumption per meter.

\$1.50 per 1,000 cubic feet if the consumption is less than 6,000 cubic feet.

\$1.00 per 1,000 cubic feet if the consumption equals or exceeds 6,000 cubic feet.

Minimum monthly charge, 50 cents per meter.

Maximum charge for 6,000 cubic feet or less per month, \$6.00.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1917.

DECISION No. 4040.

IN THE MATTER OF THE APPLICATION OF ROGERS DEVELOPMENT COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A CERTAIN IRRIGATING CANAL SYSTEM, AND OF WEST RIVERSIDE CANAL COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE BONDS IN THE AMOUNT OF SIXTY-SIX THOUSAND DOLLARS.

Application No. 2641.

IN THE MATTER OF THE APPLICATION OF WEST RIVERSIDE CANAL COMPANY TO ISSUE STOCK FOR PROPERTY, AND HAVE COMMISSION FIX RATES FOR CARRYING WATER IN THE CANAL OF SAID COMPANY.

Application No. 2664.

Decided January 20, 1917.

Authorization made permitting the transfer of canal properties to West Riverside Canal Company, which company is authorized to issue \$99,300.00 par value of its common stock and \$60,000.00 face value 6 per cent bonds, such bonds to be sold at not less than 97, proceeds to be used partly in payment for properties acquired, to discharge notes and bills and for betterments and improvements to the canal system.

Articles of incorporation of West Riverside Canal Company provide that it is a public utility subject to the jurisdiction of the Railroad Commission. It proposes to limit the use of its canal to its stockholders only.

Held, A public utility can not limit the use of its facilities to its stockholders; the right to have water carried through such canal should be open to all, and should be covered by separate agreements and not by clauses included in stock certificates.

C. L. McFarland, for West Riverside Canal Company.

Wm. Collier and George Sarau, for "350-Inch Water Company," Intervener.

LOVELAND, Commissioner.

OPINION.

At the hearing held on the above applications at Riverside on December 15, 1916, counsel for applicants and the "350-Inch Water Com-

pany," intervener, stipulated that the applications might be combined for hearing and decision.

In these applications, Rogers Development Company asks authority to sell and convey to West Riverside Canal Company for \$25,000.00 and stock an irrigating canal and system, known as the North Riverside and Jurupa Canal, located in Riverside and San Bernardino counties. West Riverside Canal Company asks authority to issue for purposes hereinafter indicated, \$99,300.00 par value of its common capital stock, \$66,000.00 face value of its 6 per cent serial bonds and its note in the sum of \$3,500.00. The canal company also asks authority to execute a mortgage securing the payment of the bonds, said mortgage to be in substantially the same form as the mortgage attached to Application No. 2641 and marked Exhibit "C." It further requests this commission to fix the rates which it may charge to those who use the canal.

The canal, commonly known as the North Riverside and Jurupa Canal, was constructed in 1888 and 1889 for the purpose of irrigating some ten thousand acres of land located west of the city of Riverside. For a description of the canal and laterals, reference is hereby made to Exhibit "A," attached to this opinion and order.

The canal and laterals are nineteen miles in length and have a carrying capacity of from 2,000 to 2,100 inches. Rogers Development Company develops no water, but it and its predecessors in interest, have sold to the landowners the right to carry or have their water carried through the canal. Counsel for the canal company alleges that these carrying rights were sold at the average rate of about \$50.00 per miner's inch.

Exhibit "D," attached to the application No. 2641, shows that the original cost of the canal with only earth construction was \$196,000.00. There was an additional expenditure of \$18,000.00 for concrete and cement work, making a total cost of \$214,000.00.

Mr. Hawley, hydraulic engineer of this commission, has made an examination of the canal and reports the reproduction cost thereof at \$195,836.00 and the reproduction cost less depreciation at \$180,731.00.

The canal heretofore has been operated under agreements by the terms of which the Rogers Development Company was supposed to repair and maintain the canal and collect the cost of maintenance from those owning flowage and capacity rights. The heavy floods of 1915 and 1916 caused so great a damage to the canal that Rogers Development Company was unable to finance its reconstruction.

To devise some means by which to make the necessary improvements, the owners of carrying rights appointed a committee consisting of J. F. Koster, Frank D. Lewis, E. L. Williamson, Myron Alquire, E. C. Kennedy, C. L. McFarland, and John H. Gobreuegge. The committee has reconstructed the canal and laterals, and proposes to make certain

additional improvements. Its financial report as of December 13, 1916, shows the following:

Money borrowed by committee and for which the members are individually responsible -----		\$15,000 00
Bills unpaid:		
J. W. Carroll -----	\$500 00	
Hammond Lumber Company -----	8,700 00	
Russ Lumber Company -----	714 34	
Riverside Portland Cement Company -----	289 47	10,203 81
Proposed improvements:		
Protection at Santa Fe Railway -----	\$750 00	
Protection below Colton road -----	400 00	
New flume -----	5,000 00	6,150 00
Total -----		\$31,353 81

The committee has caused the organization of West Riverside Canal Company, for the purpose of acquiring the canal system. The company has an authorized common capital stock issue of \$100,000.00 divided into 2,000 shares each having a par value of \$50.00. The owners of flowage or capacity rights are asked to exchange such rights for stock in the new company, one share of stock to be exchanged for each inch of flowage or capacity right. The stock is thus to be issued as part payment for the canal and rights appertaining thereto. The evidence before the commission shows that the owners of flowage or capacity rights, to the amount of 1,891.132 inches, have signed the agreement to exchange their rights for stock in the new company. While no protest was filed in connection with this proceeding, the evidence shows that the owners of flowage rights of 100.844 inches have to date not signed the agreement. The owners of these rights will be given an opportunity to exchange their rights for stock in West Riverside Canal Company, on the same basis as those who have signed the agreement. If any refuse to make the exchange, West Riverside Canal Company proposes:

“That the same rates be charged to those who have not signed, as to those who have signed, provided, however, that they designate by January first of each year, whether or not they intend to run any water in the canal during that year, and at that time, make the payment due in January. If no designation is made by January first of any year, and no payment made, then it shall be optional with the board of directors of the canal company whether or not any of the outstanding capacity or flowage rights be allowed to run water in the canal during that year.”

The articles of incorporation of West Riverside Canal Company explicitly state that it is to act as a public utility under the jurisdiction of the Railroad Commission and the laws of the State of California,

and that it is to issue carrying rights in the canal, represented by certificates of stock or certificates of such character in such form and representing such rights as the board of directors may from time to time decide upon, under the direction of the Railroad Commission. Thus far applicant has not submitted a copy of its proposed certificate of stock. It is, however, proposed that these stock certificates shall not be negotiable in the ordinary sense. The owners thereof shall have no right to dispose of them without at the same time disposing of the land for the benefit of which water is carried through the canal.

The applications contemplate the limitation of the use of the canal to the stockholders of West Riverside Canal Company. This company has been organized not as a mutual company, but as a public utility. Being a public utility, the corporation, obviously, must assume all the responsibilities of a public utility, and as such can not limit the use of the canal to its stockholders. I believe that the right to have water carried through the canal should be governed by an agreement, separate and apart from the stock certificate. Before a final order can be issued in this proceeding, West Riverside Canal Company shall submit to this commission for approval a copy of its proposed stock certificate, and a copy of the proposed agreement with those entitled to the use of the canal.

Applicant asks authority to execute to the Peoples Trust and Savings Bank of Riverside a mortgage or deed of trust securing the payment of \$66,000.00 face value of 6 per cent serial bonds. Bonds in the amount of \$3,000.00 are to mature August 1, 1921, and a like amount thereafter annually to and including August 1, 1942. The deed of trust, however, provides that on August 1, 1917, and annually thereafter to and including August 1, 1941, the company will pay to the trustee for sinking fund purposes, the sum of \$2,000.00. The annual interest accruals on the sinking fund shall be added thereto. The sinking fund payments shall be applied to the payment of bonds. When bonds are called for redemption, they shall be paid in order of serial numbers commencing with the highest number of the bonds issued and outstanding, and then going back consecutively to the lowest number. Bonds are subject to redemption at any time after five years after August 1, 1916, upon the payment of a premium of 2 per cent and the accrued interest thereon. As stated above, the bonds amounting to \$3,000.00 mature August 1, 1921. At that time the moneys in the sinking fund, if the provisions of the deed of trust are carried out, should likewise be applied to redemption of bonds. Thereafter it will be observed that \$3,000.00 of the bonds mature annually and an additional amount of bonds of approximately \$2,000.00 will be subject to redemption through the operation of the sinking fund.

West Riverside Canal Company desires authority to issue \$66,000.00 face value of bonds and sell \$60,000.00 thereof at not less than 97 per cent of their face value plus accrued interest. Inasmuch as the sale of \$60,000.00 of bonds will yield the company sufficient funds to meet its present needs, I am of the opinion that there is no necessity to authorize the issue of the remaining \$6,000.00 at this time. Of the proceeds obtained from the sale of the bonds, the company proposes to use \$25,000.00 to purchase the canal system and \$31,353.81 for the following purposes:

To pay notes, representing money borrowed to reconstruct canal.....	\$15,000 00
To pay bills payable, representing cost of materials used in reconstructing canal	10,203 81
For proposed improvements	6,150 00
Total	\$31,353 81

The evidence submitted in support of these applications shows that applicant will be called upon to expend approximately \$3,500.00 in addition to the aforementioned \$25,000.00 to obtain a clear title to the canal. It desires authority from the commission to obtain this additional money by issuing its note for a term of one year or less and to secure the payment of the note by pledging stock of the La Sierra Water Company, owned by Rogers Development Company.

If the canal company can borrow the \$3,500.00 by issuing its note for one year or less, it will be unnecessary for it to obtain permission from this commission. If, for any reason, it should develop that applicant is unable to obtain the necessary \$3,500.00 under the terms and conditions, as anticipated at the time of this hearing, it may make supplemental application to the commission for such authority as may be necessary in the premises.

Attached to Application No. 2664 (Exhibit "B") is a tentative schedule of rates which West Riverside Canal Company asks this commission to approve. This schedule of rates provides for an annual charge of \$8.00 per inch to have water carried through the canal, of which \$5.00 is to be paid on or before January 10th of each year; \$1.50 on or before May 10th of each year; \$1.50 on or before August 10th of each year. The operating expenses, interest and sinking fund payments are estimated as follows:

Salaries and wages, including office expenses, telephone, etc.....	\$4,800 00
Cleaning canal and incidental repairs	2,400 00
Taxes	1,000 00
Interest on \$60,000.00 at 6 per cent.....	3,600 00
Profit or sinking fund.....	2,000 00
Total	\$13,800 00

It estimates that approximately 1,750 inches of water will be carried through the canal at the rate of \$8.00 per inch, which would yield a revenue of \$14,000.00.

The rates proposed by West Riverside Canal Company are designed to take care only of the operating expenses, bond interest and sinking fund payments. Other than the \$2,000.00 sinking fund payment and the \$3,600.00 bond interest, they make no allowance for a return on the investment. While I am willing to recommend that West Riverside Canal Company be given authority to put its proposed rates into effect, I do so only in contemplation of the existing conditions and facts as presented to this commission in these proceedings. If hereafter different conditions arise, this commission will make the necessary adjustments.

The "350 Inch Water Company," the intervenor in these proceedings, requested that the commission protect its right to carry its full amount of water, without loss from seepage or evaporation to the west line of Rubidoux Rancho. It is the intention of West Riverside Canal Company that all the users of the canal shall be given the privilege of turning enough water into the canal to allow for seepage and evaporation. This will obviate any discrimination and protect the rights of the "350 Inch Water Company."

I herewith submit the following form of order:

ORDER.

Rogers Development Company having applied to this commission for authority to sell an irrigating canal and system, described in Exhibit "A" attached hereto, to West Riverside Canal Company, and West Riverside Canal Company having applied to the commission for authority to issue stock and bonds; to execute a mortgage or deed of trust in substantially the same form as the mortgage or deed of trust attached to Application No. 2641, and marked Exhibit "C"; and to put into effect the rates set forth in Exhibit "B" attached to Application No. 2664; and a public hearing having been held, and it appearing to this commission that the purposes for which the stock and bonds are to be issued are not in whole or in part reasonably chargeable to the operating expenses or income; and that this application, subject to the conditions hereafter specified, should be granted,

It is hereby ordered that Rogers Development Company be and hereby is granted authority to sell to West Riverside Canal Company, the irrigating canal and system described in Exhibit "A" attached to this opinion and order, said Exhibit "A" containing a general description of the properties as described in the abovementioned applications.

It is hereby further ordered that West Riverside Canal Company be and hereby is granted authority to issue \$99,300.00 par value of its common capital stock.

It is hereby further ordered that West Riverside Canal Company be and hereby is granted authority to issue \$60,000.00 face value of its 6 per cent serial bonds.

It is hereby further ordered that West Riverside Canal Company be and hereby is granted authority to execute a mortgage or deed of trust to Peoples Trust and Savings Bank of Riverside to secure the payment of \$66,000.00 face value of 6 per cent serial bonds, said mortgage or deed of trust to be in substantially the same form as the mortgage or deed of trust attached to Application No. 2641, and marked Exhibit "C."

It is hereby further ordered that West Riverside Canal Company be and hereby is granted authority to put into effect the rates shown in Exhibit "B," attached hereto, said rates to become effective upon the day the property hereby authorized to be sold shall have been transferred to West Riverside Canal Company.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The stock hereby authorized to be issued shall be issued as part payment for the canal system and rights appertaining thereto, described in Exhibit "A" attached hereto, said stock thereafter to be distributed to the owners of flowage or capacity rights in said canal system, on the basis of \$50.00 par value of stock for each inch of flowage or capacity right in said canal system.

2. The right to have water carried through the canal shall be governed by an agreement separate and apart from the stock certificate.

3. West Riverside Canal Company shall file with the commission for approval a copy of its stock certificate and also a copy of the agreement relating to the use of the canal.

4. The bonds hereby authorized to be issued shall be sold so as to net West Riverside Canal Company not less than 97 per cent of their face value, plus accrued interest.

5. The proceeds obtained from the sale of the bonds shall be used for the following purposes:

(a) To pay in part for canal system and rights appertaining thereto, described in Exhibit "A," attached hereto.....	\$25,000 00
(b) To pay notes issued by committee to obtain funds to reconstruct the canal	15,000 00
(c) To discharge bills payable representing expenditures to reconstruct canal	10,203 81
(d) To pay for proposed improvements.....	6,150 00
(e) Amount to be expended as hereafter authorized.....	1,846 19

6. At least 80 per cent of the stock hereby authorized to be issued, shall be issued concurrently with the bonds.

7. The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only, and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust are subject.

8. The price authorized to be paid for the aforementioned canal system and rights appertaining thereto shall not be binding upon this commission or any other regulatory body as a determination of its value in any rate, condemnation or other proceeding.

9. Within twenty days after the transfer of the properties hereby authorized to be sold, West Riverside Canal Company shall file with this commission a certified copy of the deed of conveyance.

10. Within twenty days after the transfer of the properties hereby authorized to be sold and transferred, West Riverside Canal Company shall file with this commission the rates hereby authorized to be charged, together with its rules and regulations.

11. West Riverside Canal Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

12. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in section 57 of the Public Utilities Act.

13. The authority herein granted shall apply to such properties as shall have been transferred and to such stocks and bonds as shall have been issued on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1917.

EXHIBIT "A."

The property which Rogers Development Company proposes to sell to West Riverside Canal Company is described by applicants as follows:

"That certain real property situate in the counties of San Bernardino and Riverside, State of California, and described as follows: That certain irrigation ditch or canal commonly known

as the North Riverside and Jurupa Canal, a plat of that portion of said canal lying within the boundary of said Riverside County, California, being on file in Book 8, page 43 of Maps, Records of Riverside County, California; and a plat of that portion of said canal located in San Bernardino County, California, being recorded in Book 19, pages 13 and 14 of Maps, records of said San Bernardino County, including therewith all the branches and laterals thereof, and all flumes, pipe lines, tunnels, siphons, aqueducts, wiers, wier-boxes, gates, valves, penstocks, bridges and buildings or other structures forming a part thereof or used in connection therewith, as well also as all tools, implements, apparatus and appliances of every kind and description and wheresoever the same may be situated now owned and used by the party of the first part in operating or maintaining, repairing or renewing said canal or in supervising, measuring, distributing or regulating the flow of water into, through or from said canal; together with all rights of way, franchises, easements, licenses, and all other real property and rights in or to real property, held, owned, used or acquired by said parties of the first part for the use and benefit of said canal, or necessary or convenient in the use, operation, maintenance, repair or renewal thereof or in supervising, measuring, distributing or regulating the flow of water into, through or from said canal, excepting, however, from the intent of this deed the property known as the Horse-shoe Lake, now used as depository of surplus waters."

EXHIBIT "B."

West Riverside Canal Company is authorized to collect the following rates:

On or before January 10th of each year.....	\$5 00 per inch
On or before May 10th of each year.....	1 50 per inch
On or before August 10th of each year.....	1 50 per inch
Total each year.....	\$8 00 per inch

DECISION No. 4041.

IN THE MATTER OF THE APPLICATION OF CALISTOGA ELECTRIC COMPANY FOR AN ORDER EXTENDING TIME FOR COMPLIANCE WITH CHAPTER 499, LAWS OF 1911, AS AMENDED BY CHAPTER 600, LAWS OF 1915.

Application No. 2214.

Decided January 22, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the time within which the Calistoga Electric Railway Company shall reconstruct its existing system so as to comply

completely with the provisions of chapter 499, Laws of 1911, as amended by chapter 600, Laws of 1915, is hereby extended to and including June 30, 1919, on condition,

1. That at least one-half of the reconstruction work necessary to be done shall be completed on or before June 30, 1918, and the entire work on or before June 30, 1919;

2. At the time herein directed petitioner shall file with the Railroad Commission, on forms to be supplied by the Railroad Commission, progress reports showing, in such detail as will be prescribed by the Railroad Commission, the extent to which the necessary reconstruction work has been performed during the period covered by the report, and also the extent to which reconstruction work remains to be done in order that the property will comply with the provisions of chapter 499, Laws of 1911, as amended by chapter 600, Laws of 1915.

The first report under this order shall cover the period ending June 30, 1917, and shall be filed with the Railroad Commission within fifteen days subsequent thereto. Succeeding reports shall cover each succeeding six months period, and shall be filed on or before the expiration of fifteen days after the termination of such succeeding period of six months.

This order supersedes the order heretofore made in this proceeding on September 26, 1916.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4042.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 83 OF THE CITY OF SOUTH SAN FRANCISCO.

Application No. 2627.

Decided January 22, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on January 17, 1917, filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on December 29, 1916, which stipulation provides that said company, its successors and assigns, shall

never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 83 of the city of South San Francisco in excess of the amount paid therefor at the time said ordinance was adopted, which amount is stated to be not in excess of \$135.00,

It is hereby ordered that said stipulation be, and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4043.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 30, NEW SERIES, OF THE CITY OF ALAMEDA.

Application No. 2633.

Decided January 22, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on January 17, 1917, filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on December 29, 1916, which stipulation provides that said company, its successors and assigns, shall never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 30, new series, of the city of Alameda in excess of the amount paid therefor at the time said ordinance was adopted, which amount is stated to be not in excess of \$686.64.

It is hereby ordered that said stipulation be, and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4044.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 208 OF THE CITY OF WOODLAND.

Application No. 2635.

Decided January 22, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on January 17, 1917, filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on December 29, 1916, which stipulation provides that said company, its successors and assigns, shall never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 208 of the city of Woodland in excess of the amount paid therefor at the time said ordinance was adopted, which amount is stated to be not in excess of \$275.00,

It is hereby ordered that said stipulation be, and the same is hereby, approved and ordered filed.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4045.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 229 NEW SERIES, OF THE CITY OF VALLEJO.

Application No. 2640.

Decided January 22, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on January 17, 1917, filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on December 29, 1916, which stipulation provides that said company, its successors and assigns, shall never claim before the Railroad Commission, or any other public

authority, any value for the rights and privileges conferred by Ordinance No. 229, new series, of the city of Vallejo in excess of the amount paid therefor at the time said ordinance was adopted, which amount is stated to be not in excess of \$558.00,

It is hereby ordered that said stipulation be, and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4046.

IN THE MATTER OF THE APPLICATION OF S. H. FINLEY FOR AN ORDER ESTABLISHING WATER RATES TO CONSUMERS.

Application No. 2670.

Decided January 22, 1917.

Applicant applies for permission to establish an increased schedule of rates for water in the city of Huntington Beach: Applicant's system was originally considerably overbuilt, accordingly no allowance can be made in the valuation for development expense as requested. Revised schedules of rates established, including a rate for fire service, which service was heretofore rendered without charge, such rates to become effective within thirty days.

Blodget & Blodget, by *L. W. Blodget*, for Applicant.

A. P. Nelson, city attorney, for city of Huntington Beach.

BY THE COMMISSION.

OPINION.

A public hearing in this proceeding was held at Huntington Beach on January 13, 1917, the testimony being taken by Myron Westover, examiner.

S. H. Finley, the applicant, distributes water under the name of East Side Water Company, to about 100 consumers in what is known as Vista Del Mar Tract, in Huntington Beach, Orange County, his supply being purchased from Huntington Beach Company at their regular low rates for large quantities.

The system was installed about 12½ years ago. It consists of about 10,960 feet of 2-inch, 1,270 feet of 3-inch and 7,010 feet of 4-inch standard screw pipe, with valves, fittings, 135 services and 75 meters.

Applicant reports that he operated at a loss for about nine years, but that for the last three and one-half years he has received more than his actual operating expenses. It appears that during the first nine years especially, the system was considerably overbuilt, as there even is now about 200 feet of main for each active service, instead of the average of about 125 feet. We therefore can not allow anything in the valuation for development expense as requested. The receipts

for the year ending June 30, 1916, are shown as \$1,393.00 and the expenses for that period as \$1,065.00.

Mr. H. F. Clark, one of the commission's assistant hydraulic engineers, estimates the reproduction cost new of the system, including 135 services, at \$6,783.00. The actual cost of the system as valued above is reported to be \$6,560.00. The difference is accounted for by the fact that prior to 1908 patrons paid for services at \$4.00 each. Mr. Finley estimates that he collected between \$200.00 and \$250.00 from consumers for service connections. The real estate, well, and tank house are not used or useful. They are not included in either estimate.

The testimony of the commission's engineer shows that the necessary revenue to provide maintenance and operation expense, an annuity for depreciation and 7 per cent interest on the cost of system is approximately \$1,659.00, and that the total average annual receipts fall about \$328.00 short of that amount. Heretofore applicant has received nothing for fire service through the fifteen hydrants which the city of Huntington Beach paid for and attached to applicant's mains.

The schedule of rates established by the order herein is the same as that for water served in other portions of Huntington Beach by Huntington Beach Company as established by the commission in Decision No. 1730 of August 14, 1914. (See Opinions and Orders of the Railroad Commission of California, Vol. 5, p. 237.) These rates will probably increase applicant's income because of fire hydrant rentals about \$192.00 per year, and may result in a further increase because of higher minimum payments under flat rate for houses of four rooms or less. In these two particulars the rates fixed in the order herein differ from the present rates, which were established by city ordinance.

Any insufficiency in earnings or return which may result from applying the rates established by the order herein will be due to the fact that applicant's territory is not yet developed sufficiently to carry the full cost of his water system.

ORDER.

S. H. Finley, doing business under the name of East Side Water Company, having applied to the Railroad Commission for authority to increase the rates charged by him for water served to the inhabitants of a portion of Huntington Beach, Orange County, and a public hearing having been held thereon, it is hereby found as a fact by the Railroad Commission of the State of California, that the rates charged by said applicant, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust; and that the rates hereinafter set forth are hereby found to be just and reasonable rates; and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order.

It is hereby ordered by the Railroad Commission of the State of California that S. H. Finley, doing business under the name of East Side Water Company, within thirty days file with the commission and put into effect the following monthly rates:

1. For every dwelling house of 5 rooms or less, with bath and toilet, occupied by one family.....	\$1 25
2. Each additional room.....	10
3. Each head of stock kept by family.....	25
4. Small stores and business offices.....	1 00
5. Stores and business offices employing four or more persons.....	1 25
6. Offices on upper floors.....	50
7. Stores using soda fountains, extra.....	50
8. Bakeries.....	2 00
9. Laundries.....	3 00
10. Butcher shops.....	2 00
11. Barber shops, not more than two chairs.....	1 50
12. Barber shops, each additional chair.....	50
13. Dentists' offices.....	1 50
14. Public horse watering trough.....	2 00
15. Public bath tubs.....	1 00
16. Wagon and blacksmith shops, not more than two forges.....	2 00
17. For each additional forge.....	50
18. Lodge or meeting rooms.....	1 50
19. Livery, feed, and sale stables, for each horse kept.....	25
20. Photograph studios.....	2 00
21. Restaurants or coffee houses.....	2 50
22. Packing-houses employing not more than ten persons.....	5 00
23. For each additional person.....	25
24. Hotels, lodging or boarding houses containing not over five rooms.....	2 00
25. For each additional room over five.....	10
26. Fountains, not to be used over twelve hours per day, 1-16-inch jet.....	2 00
27. Same, 1-8-inch jet.....	6 00
28. Fire hydrants—	
2-inch and 2½-inch.....	1 00
3-inch.....	1 50
29. Building purposes, each 1,000 brick wet and laid.....	10
30. Building purposes, each barrel of lime or cement slaked.....	10
31. Each lumber yard or machine shop.....	1 50
32. Steam engines, per horsepower.....	25
33. Gasoline engines, per horsepower.....	25
34. Public garage not exceeding 5,000 square feet of floor area.....	3 00
35. For each extra 1,000 square feet or fraction thereof.....	50
36. Lawns, gardens, shade and ornamental plants under 3,000 square feet.....	50
37. Same; use in excess of 3,000 square feet per 1,000 square feet, or part thereof.....	25
38. Public closets, each urinal and stool and lavatory.....	1 00
39. For use of hydrants for flushing streets and sewers each time hydrant is turned on.....	50
40. Meter rates:	
Minimum payment for 500 cubic feet.....	1 00
Next 4,000 cubic feet per 100 cubic feet.....	10
All over 4,500 cubic feet per 100 cubic feet.....	06

The authority hereby granted shall not be taken in any proceeding before this commission or any public body or tribunal as a finding of

value of applicant's property for any purpose other than the purposes of this proceeding.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4047.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY PETITIONER OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 401 OF THE CITY OF RICHMOND.

Application No. 2587.

Decided January 22, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on January 17, 1917, filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on December 29, 1916, which stipulation provides that said company, its successors and assigns, shall never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 401 of the city of Richmond in excess of the amount paid therefor at the time said ordinance was adopted, which amount is stated to be not in excess of \$822.84,

It is hereby ordered that said stipulation be, and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 22d day of January, 1917.

DECISION No. 4048.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

Application No. 2586.

Decided January 23, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this commission on October 24, 1916, in Decision No. 3816, authorized Sierra and San Francisco Power Company to issue and sell

at not less than 85 per cent of their face value and accrued interest, \$1,000,000.00 face value of first mortgage 5 per cent 40-year gold bonds, for the purpose of reimbursing its treasury for expenditures theretofore made in connection with the construction of its generating and distributing system; and

Whereas said order provided that the proceeds from the sale of said bonds should be placed in a special fund and used by applicant only for additions and betterments under supplemental orders from this commission; and

Whereas applicant has now requested that this commission's order in Decision No. 3816, dated October 24, 1916, be amended to the end that it may use the sum of \$12,500.00, representing the amount of accrued interest received from the sale of said bonds, to pay the interest on said bonds due February 1, 1917; and it appearing to this commission that applicant's request is reasonable and should be granted,

It is hereby ordered that this commission's Decision No. 3816, dated October 24, 1916, be and it is hereby amended to allow Sierra and San Francisco Power Company to use \$12,500.00 of the proceeds from the sale of the bonds authorized by the terms of said Decision No. 3816 to pay the interest on its first mortgage 5 per cent 40-year gold bonds due February 1, 1917;

It is hereby further ordered that this commission's Decision No. 3816, dated October 24, 1916, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this 23d day of January, 1917.

DECISION No. 4049.

IN THE MATTER OF THE APPLICATION OF THE MADERA GAS COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AND BONDS.

Application No. 2665.

Decided January 21, 1917.

OPINION.

Applicant authorized to issue \$11,292.00 par value of its capital stock to be sold at not less than 80, and \$23,000.00 face value of its 6 per cent bonds to be sold at not less than 90, proceeds to be used to discharge floating indebtedness, note and interest due on advances made, the balance for additions and improvements to plant.

Salary charged to construction in excess of 12½ per cent on the construction work done is considered excessive and the capitalization of amounts claimed in excess of such percentage is not allowed.

Carter & Torchia, by *Henry E. Carter*, for Applicant.

LOVELAND, *Commissioner*.

In this application Madera Gas Company asks authority to issue at 80 per cent of their par value 11,292 shares of stock, of the par value of \$1.00 per share, and to issue \$25,000.00 face value of 6 per cent bonds, due October 1, 1943, at 90 per cent of their face value and accrued interest.

Applicant desires authority to use the proceeds obtained from the sale of the stock and bonds for the following purposes:

(a) To pay unsecured indebtedness as shown in Schedule "A," attached to the application.....	\$19,152 27
(b) To pay note due First National Bank of Madera.....	600 00
(c) To pay interest on advances by Geo. W. Kitchen.....	1,721 88
(d) To pay for the improvements of facilities and extension of the gas system.....	10,059 50

Madera Gas Company was organized in 1913. By Decision No. 985, dated October 2, 1913 (Volume 3, Opinions and Orders of the Railroad Commission of the State of California, page 676), the commission authorized the company to issue to George W. Kitchen in exchange for a gas plant located at Madera, \$14,000.00 par value of stock and \$25,000.00 face value of bonds. In a subsequent decision, the commission authorized applicant to issue an additional \$1,000.00 par value of stock. (Volume 7, Opinions and Orders of the Railroad Commission of California, page 885.) The remaining 30 shares of stock outstanding were issued to qualify the directors of the corporation. Applicant reports its assets and liabilities as of October 31, 1916, as follows:

<i>Assets.</i>	
Intangible capital	\$7,989 23
Tangible capital	50,603 92
Cash	401 93
Accounts receivable	2,561 69
Materials and supplies.....	652 01
Unamortized discount and expense.....	2,435 60
Total assets	\$64,644 38
<i>Liabilities.</i>	
Stock outstanding	\$15,030 00
Bonds outstanding	25,000 00
Notes payable	600 00
Accounts payable	19,152 27
Guarantee deposits	1 05
Taxes accrued	801 24
Interest accrued	125 00
Reserve for accrued depreciation.....	3,441 34
Surplus	493 48
Total liabilities	\$64,644 38

Appraisals of the properties of Madera Gas Company have been prepared by H. W. Burkhart for the company and W. J. Hammond, an assistant engineer of the commission.

The engineers report the reproduction cost as follows:

Item	H. W. Burkhart	W. J. Hammond
Land	\$2,400 00	\$1,663 00
Production capital	35,652 70	34,002 00
Distribution capital	24,673 38	26,900 00
General equipment	4,080 81	2,360 00
Totals	\$66,806 89	\$64,934 00

W. J. Hammond estimates the reproduction cost less depreciation at \$55,200.00. The value of materials and supplies, he estimates at \$1,394.00, making a total of \$56,594.00.

Of the proceeds obtained from the sale of the stock and bonds, applicant proposes to expend \$10,059.50 to install extensions and improvements as follows:

Gas plant	\$570 00
19,200 feet, main extension	4,800 00
100 service	1,000 00
500 regulators	1,500 00
100 meters	650 00
One meter prover	150 00
One Ford automobile	475 00
Engineering and supervision 10 per cent	914 50
Total	\$10,059 50

Including the cost of extensions and improvements, the estimate of the reproduction cost of the properties varies from \$74,993.50 to \$76,866.39 on the basis of the foregoing appraisals. The reproduction cost less depreciation according to W. J. Hammond's report would be \$66,653.50.

The department of statistics and accounts of this commission reports the revenues and expenses of applicant as shown by its books, as follows:

Item	Two months 1913	1914	1915	1916
Revenues	\$982 57	\$8,230 74	\$10,298 53	\$13,073 76
Operating expenses	1,414 05	8,934 29	10,951 89	8,093 95
Net operating revenues	\$568 52	\$9,300 45	\$9,346 64	\$4,979 81
Deductions:				
Interest on funded debt	\$250 00	\$1,750 00	\$1,500 00	\$1,500 00
Other interest	14 90		27 44	42 00
Uncollectible bills			276 38	
Total deductions	\$264 90	\$1,750 00	\$1,803 82	\$1,542 00
Surplus for year	\$303 62	\$7,550 45	\$7,542 82	\$3,437 81

¹Loss.

The operating expenses for 1914 include \$1,714.36 and for 1915, the sum of \$1,726.98, allowed for depreciation. The revenues and expenses for 1913, 1914 and 1915, are in accord with the reports on file with the commission.

In Schedule "A" prepared by T. F. Speed, an accountant employed by applicant, and attached to the application, applicant reports \$288.20 surplus for the two months ending December 31, 1913; \$134.75 for the year 1914; \$910.20 for year 1915 and \$2,601.69 for the ten months ending October 31, 1916. The sale of appliances accounts in part for 1913 surplus. Applicant's operating revenues show a steady increase. The average number of consumers increased from 314 in 1915 to 360 in 1916, while the average consumption per consumer increased from 2,050 cubic feet to 2,160 cubic feet per month. With the added installation, applicant estimates that it can increase its consumers to 460.

Part of the proceeds obtained from the sale of the stock and bonds applicant desires to use to pay:

(a) Accounts payable	\$19,152 27
(b) A note due First National Bank of Madera	600 00
(c) Interest on advances by Geo. W. Kitchen	1,721 88
Total	<u>\$21,474 15</u>

The \$19,152.27 includes \$16,289.84 due Geo. W. Kitchen, who controls applicant's stock and owns all of its bonds. Since November, 1913, Mr. Kitchen, who has also been in charge of the construction of the plant, devoting about one-half of his time to it, has deferred the collection of his salary of \$100 per month, or a total of \$3,500. The unpaid salary has been charged to construction. In Schedule "A" attached to the application, applicant reports fixed capital as follows:

October 31, 1916	\$58,593 15
December 31, 1915	46,930 67
December 31, 1914	44,157 21
December 31, 1913	38,670 74
November 1, 1915	36,956 45

The annual increase in the fixed capital is reported as follows:

Year	Including Mr. Kitchen's salary	Excluding Mr. Kitchen's salary
Ten months, 1916	\$11,662 48	\$10,762 48
1915	2,773 46	1,573 46
1914	5,486 47	4,286 47
Two months, 1913	1,714 29	1,514 29

I am of the opinion that the amount of salary charged to construction during 1913, 1914, and 1915 is excessive. Under the facts and circumstances of this case, I do not think that such charges should exceed

twelve and one-half per cent on the construction work done annually. On this basis, I am willing to recommend that applicant be permitted to capitalize \$1,821.76 out of the \$3,500.00. The remainder should be charged to operating expenses. For this reason an issue of \$11,292.00 of stock and \$23,000.00 of bonds will be adequate to meet applicant's present needs.

Included in the aforementioned sum of \$19,152.27 is the sum of \$1,099.10 representing cost of appliances. Applicant requests that it be permitted to use part of the proceeds obtained from the sale of its stock and bonds, to pay for said appliances thus enabling it to retain its present working assets as a revolving fund.

Applicant reports that the sum of \$12,789.84 advanced by Mr. Kitchen together with the unpaid interest on such advances amounting to \$1,721.88, was invested in the plant.

I herewith submit the following form of Order.

ORDER.

Madera Gas Company having applied to the Railroad Commission for authority to issue \$11,292.00 par value of common capital stock and \$25,000.00 face value of first mortgage six per cent bonds, due October 1, 1943, and a public hearing having been held, and the commission finding that the purposes for which applicant desires to expend the proceeds obtained from the sale of its stock and bonds, are not, in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Madera Gas Company be and hereby is granted authority to issue \$11,292.00 par value of its common capital stock.

It is hereby further ordered that Madera Gas Company be and hereby is given authority to issue \$23,000.00 face value of its 6 per cent first mortgage bonds, due and payable October 1, 1943.

The authority hereby granted is granted upon the following conditions and not otherwise.

1. The stock hereby authorized to be issued shall be sold by applicant so as to net it not less than 80 per cent in cash of the par value thereof.

2. The bonds hereby authorized to be issued shall be sold so as to net applicant not less than 90 per cent of their face value in cash, plus accrued interest.

3. The proceeds obtained from the sale of the stock and bonds shall be used for the following purposes.

(a) To pay indebtedness reported in Schedule "A" attached to application	\$17,474 03
(b) To pay note due First National Bank of Madera	600 00
(c) To pay interest on advances by Geo. W. Kitchen	1,721 88
(d) To pay for the improvements and extensions as per Schedule "C" attached to application	10,059 50

4. Of the proceeds obtained from the sale of the stock and bonds, an amount not to exceed \$1,821.76 may be used to pay salary of Mr. Kitchen, said \$1,821.76 being included in the \$17,474.03 shown in subdivision (a) of condition (3) of this order.

5. Madera Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stocks and bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stocks and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

6. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in section 57 of the Public Utilities Act.

7. The authority herein granted shall apply only to such stock and bonds as shall have been issued on or before October 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of January, 1917.

Decisions Nos. 4050, 4051, 4052, grade crossings; not printed. See end of volume.
DECISION No. 4053.

IN THE MATTER OF THE APPLICATION OF H. O. KOHLER AND
A. SCHWARTZ FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY AND FOR THE ESTABLISHMENT OF RATES.

Application No. 2578.

Decided January 24, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicants in this proceeding having on the ninth day of January, 1917, filed with this commission a stipulation as required by the order of this commission heretofore made on December 20, 1916;

And it appearing that such stipulation is in form satisfactory to this commission so far as may be necessary for the purposes of this proceeding;

And it further appearing that applicants herein have complied with all the conditions of said order of December 20, 1916, aforesaid,

It is hereby ordered that said stipulation aforesaid be filed in this proceeding.

Dated at San Francisco, California, this 24th day of January, 1917.

DECISION No. 4054.

O. S. CAULFIELD ET AL.

vs.

THE MONTEREY COUNTY WATER WORKS.

Case No. 951.

ANDREW MANGER

vs.

THE MONTEREY COUNTY WATER WORKS.

Case No. 951.

Decided January 25, 1917.

Complainants petition the commission to establish a rule preventing defendant water company from collecting more than one minimum rate two or more houses are connected to the same meter and service connection.

Held, Defendant directed to make only one monthly minimum charge for each service and meter now installed or hereafter installed upon application of a consumer.

O. S. Caulfield, in propria persona.

Andrew Manger, in propria persona.

J. F. Shuman, of Morrison, Dunne & Brobeck, for Defendant.

BY THE COMMISSION.

OPINION.

These cases, both of which seek relief against the practice of the defendant corporation of charging more than one minimum monthly water payment where water is furnished to two or more houses through a single service connection and meter, were consolidated at the public hearing, which was held at Monterey, the testimony being taken by Examiner Bancroft.

From the evidence it appears that a number of defendant's consumers in Monterey, Pacific Grove and Carmel have two or more houses situated on one lot or on adjoining lots which obtain their water through a single service connection and meter. Defendant has charged and collected a separate minimum for each structure where water is used irrespective of its size or the amount of water consumed. It has offered to install separate meters and connections for each building and has so notified the respective consumers, who have generally declined to avail themselves of defendant's offer.

The rates of defendant as established by this commission, and now in effect, are as follows:

Monthly minimum payments.

$\frac{1}{2}$ -inch and $\frac{3}{4}$ -inch services.....	\$0 90
1-inch service.....	1 25
1 $\frac{1}{2}$ -inch services.....	1 75
2-inch services.....	2 25
3-inch services and larger.....	3 00

Monthly meter rates.

First 300 cubic feet.....	30 cents per 100 cubic feet
For next 700 cubic feet.....	25 cents per 100 cubic feet
For all used above 1,000 cubic feet.....	21 cents per 100 cubic feet

Defendant introduced as an exhibit, a list of 195 of so-called double services, meaning services upon which it believes it is entitled to charge two or more minimum payments. By stipulation it later filed with the commission a tabulation of all such services showing the amounts of water delivered during the 12 months' period, August, 1915, to July, 1916, inclusive. Applying to these services, first, the rate computed upon the basis of but one minimum charge, and then the multiple minimum charges actually demanded by defendant during said period, we find that the difference would amount to approximately \$300.00 per year.

There appears to us no logical reason why defendant should be entitled to make two or more minimum charges where water is served through one meter and service connection to two or more adjoining houses belonging to one person. The water company is not subjected to any greater cost than if it were serving only one house. The size of its meter and service and the cost of billing and collecting is the same whether the water after passing through the meter is used in one or in several buildings. One illustration of the difficulty of defendant's position is that in several cases a householder had, according to the testimony, avoided paying the two or three minimum charges simply by connecting his various cottages with boards in such a manner as to be able to claim that the several cottages constituted one building.

Defendant's charges seem to be more or less governed by the old traditions of flat rates, when each house was rated separately at an estimate of probable use. The old system was, at its best, inequitable and far from scientific; but by the introduction of meters, companies are enabled to base their charges upon the amount of water actually consumed, allowing the company a reasonable minimum charge for each service and meter installed.

Under all the circumstances of this case, we are of the opinion that defendant is entitled to make a separate minimum charge for each service and meter now installed, or hereafter installed upon application of a consumer, and that it is not entitled to make a separate minimum charge where one service and meter serves several buildings.

It is hardly necessary to add that nothing in this opinion would give a person the right to procure water from defendant through his meter and then resell said water to other consumers in defendant's territory

ORDER.

A public hearing having been held in the above-entitled case, and oral and documentary evidence having been introduced, and the matter having been duly submitted and being now ready for decision,

The Railroad Commission of the State of California, for the reasons set forth in the foregoing opinion, hereby orders that defendant Monterey County Water Works shall hereafter make only one minimum monthly charge for each service and meter now installed or hereafter installed upon application of a consumer.

Dated at San Francisco, California, this 25th day of January, 1917.

DECISION No. 4055.

WEST OAKLAND TAXPAYERS AND BUSINESS MEN'S ASSOCIATION
vs.
SOUTHERN PACIFIC COMPANY.

Case No. 952.

Decided January 25, 1917.

Complainant petitioning the commission to compel defendant company to establish and maintain a waiting room for passengers using its local trains at what is known as Pine Street Station in the city of Oakland.

Held, The service rendered by defendant at the above point is strictly a suburban service, trains being operated at frequent intervals, and is more in the nature of a street car service than the regular train service where passengers are required to wait for indeterminate periods. Service is frequent and can be relied upon, accordingly waiting room facilities are unnecessary. Complaint dismissed.

A. F. Hufschmidt, for Complainant.

George D. Squires, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint requesting that the Southern Pacific Company be required to establish a waiting room at Seventh and Pine streets in the city of Oakland, county of Alameda, on the "Seventh Street Local" line of the Southern Pacific Oakland-Alameda-Berkeley electric system. The complaint alleges that by reason of there being no waiting room facilities passengers awaiting trains are exposed to the elements unless they take refuge in stores on the northerly side of Seventh street; also that waiting room facilities were formerly provided at this point but

have been discontinued; also that the traffic at this station is greater than at any other station on the "Seventh Street Local" line excepting Broadway.

The defendant filed its answer denying the material allegations of the complaint.

A public hearing was held at Oakland on December 22, 1916, before Examiner Encell, the matter was submitted and is now ready for decision.

The complainant in this proceeding is an association comprised of two hundred twenty-seven (227) members, organized for the promotion of the district known as West Oakland. The absence of waiting room facilities was established and the evidence showed that formerly when tickets were required before passengers were permitted to enter the cars some waiting room accommodations were provided by the defendant, Southern Pacific Company. There was no showing as to the volume of traffic requiring waiting room facilities nor as to the necessity for those facilities if the frequency of service and regularity of schedule be considered.

The Southern Pacific Company operates a total of one hundred and eight (108) trains on the Seventh street local line each week day excepting Saturday, one hundred fourteen (114) trains on Saturdays only, and one hundred twelve (112) trains on Sundays only. These trains are operated closely to schedule and the time of departure can be relied upon by the traveling public.

The service accorded by the Southern Pacific Company on its Seventh street local line of the electric system is a suburban service, operated at frequent and regular intervals. The delays incidental to regular railroad service due to weather conditions, heavy travel, necessity for connections at junction points, et cetera, do not obtain and passengers can depend on the arrival and departure of trains at the time scheduled. The patrons of the Southern Pacific Company at the Pine Street Station board trains for San Francisco or for East Oakland, Melrose, Alameda, Elmhurst and intermediate points. In fact, the service is more nearly comparable to street car service than to regular railroad service. Frequent trains are scheduled for all these points, and the regularity of service renders unnecessary any considerable waiting by passengers.

In view of the above facts we do not find that the request for waiting room accommodations is justified by the evidence in this proceeding.

ORDER.

West Oakland Taxpayers and Business Men's Association having filed a complaint requesting that the Southern Pacific Company be required to maintain waiting room accommodations at its station of

Pine street on the "Seventh Street Local" line of the Oakland-Alameda-Berkeley electric system, and a public hearing having been held and the commission being fully advised,

It is hereby ordered that the complaint be, and the same hereby is, dismissed.

Dated at San Francisco, California, this 25th day of January, 1917.

DECISION No. 4056.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA
GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF
\$32,000.00 FACE VALUE OF NOTES.

Application No. 2726.

Decided January 25, 1917.

Applicant applies for permission to issue \$32,000.00 face value 7 per cent notes to be sold at par for the purpose of meeting sinking fund obligations amounting to \$12,000.00 and to discharge note in the sum of \$20,000.00. The commission heretofore directed that money borrowed from applicant by its officials should be returned and an assessment levied on its stock to provide funds for sinking fund purposes and other pressing obligations. Until such actions have been taken by applicant present application denied.

C. S. S. Forney, for Applicant.

W. C. Crittenden, for Chas. F. Legee, J. Molgaard, and Clark Burnham, stockholders of applicant, protestants.

LOVELAND, GORDON, DEVLIN, *Commissioners*.

OPINION.

This is an application of Central California Gas Company for authority to issue \$32,000.00 face value of notes at par, the proceeds to be used to acquire \$12,000.00 face value of 6 per cent bonds for its sinking fund and to repay a \$20,000.00 note held by Anglo-California Trust Company, dated May 21, 1915, due one day after date and bearing interest at 6 per cent per annum.

At the present time applicant is in arrears in its sinking fund payments to the extent of \$12,000.00. The note in favor of Anglo-California Trust Company is also overdue. In order to take care of these obligations, applicant desires to issue 32 notes of the face value of \$1,000.00 each, bearing interest at 7 per cent per annum, payable monthly, callable at 101 and accrued interest and payable February 1, 1921.

At the hearing Mr. C. S. S. Forney, president of Central California Gas Company, stated that he made tentative arrangements for the sale of these notes but that no agreement had been entered into in writing.

In Decision No. 3997, dated January 10, 1917, this commission issued its order upon the applications of Central California Gas Company to issue \$87,500.00 par value of 7 per cent prior preferred stock and to issue \$50,000.00 of 6 per cent notes secured by \$50,000 par value of preferred stock.

Applicant desired to use the proceeds of said stock or notes for the purpose of meeting sinking fund requirements in the sum of \$12,000.00 to pay notes and accounts payable in the sum of \$29,000.00 and to provide for additions and betterments to its system in the sum of \$46,590.95.

In its opinion the commission called attention to various discrepancies and irregularities in applicant's books and in the conduct of its affairs and also called attention to the fact that Mr. Forney, president of the company, had taken from the company's funds \$4,926.05, which he had charged to himself on open account.

The commission stated that under all the circumstances it was unwilling to recommend that the applicant be allowed to issue stock or notes as requested.

The commission further stated that the money borrowed from applicant by any of its officials should be forthwith returned and unnecessary expenses discontinued, and further that it would be necessary for applicant to provide additional means, through the medium of an assessment, to take care of its sinking fund and to pay its pressing obligations.

The evidence in the matter now before the commission does not show any essential change in the affairs of this corporation as outlined in this commission's Decision No. 3997, dated January 10, 1917.

The applicant will be expected to proceed to collect funds through the medium of an assessment for the purposes outlined in this commission's previous decision. Thereafter the commission will be in a position to entertain further applications from this utility relative to the financing of its properties. In the meantime we are of the opinion that the application now before the commission should be denied.

ORDER.

Central California Gas Company having applied to this commission for authority to issue \$32,000.00 face value of promissory notes and to use the proceeds in acquiring \$12,000.00 face value of its 6 per cent bonds for its sinking fund and in repaying a note in the face value of \$20,000.00 to Anglo-California Trust Company;

And it appearing to this commission that for the reasons set forth in the opinion which precedes this order, the application herein should be denied,

It is hereby ordered that the application of Central California Gas Company to issue \$32,000.00 face value of promissory notes be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 25th day of January, 1917.

Decision No. 4057, grade crossing; not printed. See end of volume.

DECISION No. 4058.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY AND ED FLETCHER FOR AN ORDER FIXING RATES TO BE CHARGED AND COLLECTED FOR WATER FURNISHED AND TO BE FURNISHED BY THEM, AND SERVICE RENDERED BY THEM IN FURNISHING WATER, AND IN FURNISHING, CARRYING AND CONVEYING WATER IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

Application No. 1231.

Decided January 25, 1917.

A proceeding upon application that the Railroad Commission establish a revised schedule of rates for domestic and irrigation service for the system of applicants. Following rates established to become effective March 1, 1917: Monthly minimum for each service connection \$1.00 for ¾-inch connection ranging to \$4.00 for 3-inch connection or larger. General use, one thousand cubic feet, 25 cent per 100, one thousand to five thousand cubic feet 15 cents per 100, five thousand to one hundred thousand cubic feet 12 cents per 100, over one hundred thousand cubic feet 8 cents per 100. Irrigation use above two thousand cubic feet 2½ cents per 100. Public use, street sprinkling, etc., 12 cents per 100 cubic feet per month, fire service, \$2.00 per hydrant per month. Other uses at general rates.

Held: 1. When an excessive investment is made by a utility solely for the purpose of serving a few consumers, the balance of the utility's consumers should not be burdened with rates sufficiently large to provide a return on such an investment which can not possibly be of any benefit to them, and as the few consumers served can not possibly pay rates permitting of a fair return thereon, the general rates charged other consumers should be collected.

2. Existing consumers of a water utility can not fairly be called upon to pay a return on construction unreasonably in excess of their present requirements, accordingly a reduction should be made account of the excess capacity of the transmission system of applicants and a corresponding reduction in the allowance made for depreciation.

3. In establishing rates the Railroad Commission generally takes into consideration capital expenditures which might reasonably be expected to be made during the ensuing year. As applicant is required to raise the height of its dam so as to enable it to store 100 feet of water and to improve its transmission and distributing systems accordingly, such expenditures will be included in the amount of investment upon which rates are based and depreciation annuity fixed accordingly.

4. Depreciation annuity established on the 6 per cent sinking fund basis on such depreciable property as is now used and useful in the service of water to applicants' consumers including the additional investment of \$150,000.00 herein required.

5. When a utility has been considerably damaged by disastrous floods an allowance will be made in maintenance and operating expenses (\$2,500.00 annually in the present instance), sufficient to amortize, over a period of years, the damage done.

6. It is practically impossible to fix, with scientific accuracy, the price to be paid for a surplus product such as the surplus waters of the San Diego River delivered by applicant to the city of San Diego for its municipal distributing system, accordingly the price to be paid therefor is left to negotiations between the parties in interest.

7. The fact that a transmission system was constructed for the purpose of serving one large consumer, which large consumer is subsequently lost to the utility, is not sufficient reason to burden the smaller consumers with rates sufficient to provide a return upon a system considerably larger than is necessary to adequately care for their requirements.

8. When a utility has surplus water to dispose of, its present consumers should have preference thereto, afterwards such additional consumers may be taken on as the facilities of the utility will permit.

9. A utility is required to have uniform nondiscriminatory rules governing the distribution of water. The group consumers of applicants should be served under one of two rules: (1) When water is taken direct from the transmission system and distributed by the consumers themselves, it should be paid for as a whole and individual collections made and the distributing system maintained by the consumers themselves; (2) When distributed by applicant, collections should be made by applicant in accordance with individual consumption, and the distributing system maintained by applicant.

Sweet, Stearns & Forward, by *F. W. Stearns, S. B. Robinson and A. E. Chandler*, for James A. Murray, Ed Fletcher, William G. Henshaw and Cuyamaca Water Company.

Edgar A. Lucc, for La Mesa, Lemon Grove and Spring Valley Irrigation District.

D. G. Gordon, Sumner & May and P. S. Thatcher, for consumers of flume line.

T. B. Cosgrove, city attorney, for city of San Diego.

F. G. Blood, for city of East San Diego.

Haines & Haines, for Lemon Grove Mutual Water Company, Lemon Grove Park and Fairmont Water Company.

Fred L. Burgan and C. R. King, for Normal Heights water consumers.

D. L. Wood, for Granada Tract.

Titus, Creed, Jones & Dall, for C. A. Hooper & Company.

THELEN and LOVELAND, *Commissioners*.

James A. Murray and Ed Fletcher, copartners doing business under the firm name and style of Cuyamaca Water Company, hereinafter referred to as the Cuyamaca company, ask the Railroad Commission to make its order establishing just and reasonable rates to be charged by them for water sold for domestic and irrigation use in a portion of San Diego County, California.

The subject matter of this opinion will be discussed under the following heads:

1. Proceedings affecting Cuyamaca company.
2. Existing rates.
3. Rate base.
4. Depreciation annuity.
5. Maintenance and operating expenses.
6. Capacity of system—present and prospective.
7. Rates herein established.
8. Rules and regulations.

1. Proceedings Affecting Cuyamaca Company.

In Application No. 118, the Cuyamaca company filed its petition alleging, in effect, that its rates for water sold by it were unjustly low and asking the Railroad Commission to establish just and reasonable rates. After exhaustive investigation, this commission, on March 28, 1913, made its Decision No. 536 in said application (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 464). In this decision, this commission, speaking through Commissioner Eshleman, found that the fair value of the Cuyamaca company's property devoted to the public use was, at the time of the decision, the sum of \$352,500.50; that reasonable maintenance and operating expenses would be \$28,600.00 per annum, but that pending the renewal of the Cuyamaca company's flume, the company could not, in justice and under the law, demand more than the proportion of its operating and maintenance expenses which was represented by the adequacy of the system, which sum was approximately \$21,000.00; that a reasonable depreciation annuity on the straight-line theory would be \$21,150.03; and that a reasonable gross revenue would be \$66,825.03. Basing its decision on these findings and on the other findings which are contained in the opinion in said decision, the Railroad Commission made its order authorizing the Cuyamaca company to increase its rates for water in the amount and under the conditions specified in the order in said decision. The order contains specific findings of fact and then provides as follows:

"It is hereby ordered that the applicants herein begin immediately the construction of a flume in lieu of the one now used, which flume shall be of a character satisfactory to this commission after the plans therefor have been submitted to it, but shall in any event be a closed flume or conduit of suitable material to be determined on the submission of the plans to this commission; and

It is further ordered that within thirty (30) days from the date of this order that the applicants file with this commission plans and specifications of said flume; and

It is further ordered that said applicants take immediate steps to increase the available supply of water so that the same may be

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increased over the present available supply at least 33½ per cent. While the commission does not at the present prescribe details with reference thereto, it reserves and does not finally determine this question, and in the event that these applicants do not within a reasonable time in the opinion of the commission begin the construction of other facilities than the ones specifically ordered herein, this particular matter being held open for decision and for the further submission of evidence, will again be considered by this commission after due notice to the applicants and the parties hereto as required by law; and

It is further ordered that no additional consumers be added to this system except domestic consumers under the terms hereinbefore in this opinion and order set out; and

It is further ordered that the following rates be and they are established as just and reasonable and the only rates to be charged by the applicants herein:

(1) For domestic use, 25 cents per thousand gallons, with a minimum charge of \$1.25 per month, the applicants to furnish meters and cost of installation of all facilities, the consumer to furnish pipes upon his own premises.

(2) For water to the La Mesa Mutual Water Company for domestic use within the town of La Mesa, 15 cents per thousand gallons, with a minimum charge of \$100.00 per month.

(3) For water for irrigation purposes, including domestic purposes incident thereto, taken from the flume as hereinbefore described, \$65.00 per miner's inch per annum.

(4) For water for irrigation purposes, including domestic purposes incident thereto, other than that taken from the flume, \$70.00 per miner's inch per annum.

All of said rates to be charged under just and reasonable regulations as regards service as the company may adopt and this commission approve, and shall apply on and after July 1, 1913, and before such time the applicants shall file with this commission rates in accordance herewith; and

It is further ordered that each and every portion of this order is made in contemplation of the performance by the applicants of every other portion thereof, and that this order is not to be considered as separable, and that no rates other than the ones that are now being charged by these applicants may be charged or collected until said applicants have complied with all of the provisions of this order or shall satisfy this commission that they are in good faith proceeding to comply therewith."

The Cuyamaca company having represented to the Railroad Commission that it was proceeding in good faith to comply with the provisions of said order, the company was permitted to charge and collect the rates specified in said order. These rates were accepted without contest by the Cuyamaca company's consumers. With minor modifications, to which it is not necessary here to refer, these rates have been in effect continuously subsequent to July 1, 1913.

Thereafter, in Application No. 756, the Cuyamaca company asked authority to increase its charges for water to cover the cost of securing a temporary additional supply to relieve a shortage in supply and for other reasons. In its Decision No. 1186, made in said proceeding on December 31, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 1240), the Railroad Commission, speaking through Commissioner Loveland, found that the Cuyamaca company had not complied with the conditions contained in the order in said Decision No. 536 and ruled that the petition in Application No. 756 should be held in abeyance pending the compliance by the Cuyamaca company with the order in said Decision No. 536. The Cuyamaca company was advised that upon compliance with the order in said Decision No. 536, the company might apply for a readjustment of its rates, at which time the entire matter would be considered and adjusted. Thereafter, on July 10, 1914, the Cuyamaca company filed its original petition in the present proceeding, in which petition the Cuyamaca company requested that its rates be further increased.

Subsequent thereto, the Cuyamaca company and La Mesa, Lemon Grove and Spring Valley Irrigation District filed their joint petition in Application No. 1432. This petition recited that the parties had entered into an agreement dated November 17, 1914, in which the Cuyamaca company agreed to sell its system to the La Mesa district and the La Mesa district agreed to purchase the same, at such price as should be established by the Railroad Commission. The parties asked the Railroad Commission to fix and determine the fair price to be paid and received for said system.

Shortly thereafter, the city of San Diego filed with the Railroad Commission its petition in Application No. 1482. This petition alleged, in accordance with the provisions of section 47 of the Public Utilities Act, that the city of San Diego desired to acquire by eminent domain proceedings, or otherwise, the property of the Cuyamaca company and requested that the Railroad Commission fix and determine the just compensation to be paid by the city for said property, as provided by section 47 of the Public Utilities Act.

By consent of all parties, it was stipulated that the evidence taken in each of the three proceedings next hereinbefore specified, being the present proceeding and Applications Nos. 1432 and 1482, might be considered in each of said three proceedings. It was further stipulated that the evidence taken in Application No. 118, being the first proceeding affecting the Cuyamaca company, might be considered in each of these three proceedings. Accordingly, we have before us in the present proceeding the entire evidence heretofore taken in Applications

Nos. 118, 1432 and 1482, as well as the evidence specifically introduced in the present proceeding.

On June 26, 1915, the Railroad Commission made its decisions in Applications Nos. 1432 and 1482, and its order *pendente lite* in the present proceeding.

In Decision No. 2527, made in said Application No. 1482, *City of San Diego*, the Railroad Commission, speaking through Commissioner Thelen, found that the just compensation to be paid by the city of San Diego to the Cuyamaca company for almost its entire property was the sum of \$745,000.00 and that the just compensation to be paid by the city of San Diego for a designated portion of said property was the sum of \$644,669.00, with the additional sum of \$32,966.12 for severance damages (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 305).

In Decision No. 2531, made in said Application No. 1432, *Murray and Fletcher and La Mesa District*, the Railroad Commission, speaking through Commissioner Thelen, found that the fair price to be paid by the La Mesa district for the property of the Cuyamaca company under the agreement of November 17, 1914, was the sum of \$745,000.00 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 334).

In Decision No. 2525, made on the same day in the present proceeding, the Railroad Commission, speaking through Commissioner Thelen, held, in view of the supposed imminent purchase of the property of the Cuyamaca company either by the La Mesa district or the city of San Diego, and of other matters referred to in the opinion therein, that further consideration of the present proceeding should be deferred until November 15, 1915, at which time, if the Cuyamaca company should still be the owner of its water system without prospect of sale in the immediate future, and if the company had rendered full service to its customers during the irrigation season of 1915, the company might, by supplemental petition, ask the Railroad Commission to resume further consideration of this proceeding.

On January 6, 1916, the Cuyamaca company filed herein its supplemental petition alleging, in effect, that there was no reasonable prospect of selling its system either to the La Mesa district or to the city of San Diego and asking that the Railroad Commission proceed with further hearings herein. At a hearing held on this supplemental petition on February 25, 1916, in the city of San Diego, the La Mesa district protested against the resumption of hearings, on the ground that the district was willing to perform every condition in the contract of November 17, 1914, by it to be performed and expected shortly to acquire the property. The representatives of the Cuyamaca

company at said hearing represented that they were also willing to perform the conditions to be performed by them. There appearing to be a reasonable prospect that the parties might agree, further proceedings herein were suspended until the further order of the Railroad Commission.

The Railroad Commission having thereafter become convinced that there is no reasonable prospect in the immediate future of the transfer of the Cuyamaca company's property either to the La Mesa district or to the city of San Diego, further hearings herein were resumed. These hearings were held in San Diego on August 5, 7, 8 and 9, 1916. This proceeding has been submitted and is now ready for decision.

Reference is hereby made to each of the decisions affecting the Cuyamaca company, hereinbefore referred to. In the present opinion, we shall consider only such additional matters as are necessary to the determination of this proceeding.

2. Existing Rates.

For a discussion of the rates of the Cuyamaca company prior to the revision thereof by the Railroad Commission in Decision No. 536 of March 28, 1913, in Application No. 118, the conditions under which such rates were established and maintained, the so-called water right contracts and the moneys paid thereunder by the consumers under this system to the predecessors of the Cuyamaca company, and to the acquisition of the property by the Cuyamaca company subject to all outstanding obligations, reference is hereby made to the decision of March 28, 1913, in Application No. 118, and also to Decision No. 2531, made on June 26, 1915, in said Application No. 1432.

With certain exceptions, the rates charged by the Cuyamaca company are the rates established by the Railroad Commission in the decision of March 28, 1913, in Application No. 118, which rates were as follows:

1. For "domestic" use, 25 cents per 1,000 gallons, with a minimum charge of \$1.25 per month, the Cuyamaca company to furnish meters and to install all facilities and the consumer to furnish the pipes upon his own premises.

2. For water to La Mesa Mutual Water Company for "domestic" use within the town of La Mesa, 15 cents per 1,000 gallons, with a minimum charge of \$100.00 per month.

3. For water for "irrigation" purposes, including "domestic" purposes incident thereto, taken from the Cuyamaca company's flume, \$65.00 per miner's inch per annum.

4. For water for "irrigation" purposes, including "domestic" purposes incident thereto, other than that taken from the flume, \$70.00 per miner's inch per annum.

The rate paid by the Fairmont Water Company was subsequently established at 15 cents per 1,000 gallons (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 324).

During the period of the year in which surplus water was available from the San Diego River, the Cuyamaca company has been selling such surplus water to all persons desiring to purchase the same, at the rate of 10 cents per 1,000 gallons. As will hereinafter appear, a very considerable amount of surplus water has been thus sold to the city of San Diego.

It has been impossible to establish a satisfactory distinction between water used for "irrigation" purposes and water used for "domestic" purposes under the Cuyamaca company's system, in accordance with the rate schedule of March 28, 1913, as hereinbefore set out. The attempt to have the so-called "domestic" rate apply to lots of one-half acre or less in size and of having the so-called "irrigation" rate apply to lots in excess of one-half acre in size has resulted in a large number of indefensible inequalities and inconsistencies. The form of this rate must be entirely changed.

The Cuyamaca company urges that the rates now in effect fail to yield the gross revenue to which the company is entitled and hence asks that the Railroad Commission authorize a further substantial increase in said rates.

Part of the consumers take the position that no increases whatsoever should be permitted. Many of the consumers holding so-called water right contracts urge that they consented to the increase in rates established by the Railroad Commission in said Application No. 118, only because they expected that under the order in said decision the safe yield of the system would be very substantially increased by the Cuyamaca company, so that the position of the consumers under this system, in view of the periods of drought to which this system is subject, would be made more secure. Other consumers herein take the position that they would be willing to pay a reasonable increase in the rates, provided that they could feel assured that the Cuyamaca company would now proceed to the development of such additional storage facilities as might now be specified by the Railroad Commission.

3. Rate Base.

As already indicated, the fair price for the specified portion of the Cuyamaca company's system fixed and determined by the Railroad Commission in said Applications Nos. 1432 and 1482, to be paid by the La Mesa District and by the city of San Diego, respectively, for said property as of June 30, 1915, was the sum of \$745,000.00.

As shown in the decision in said Application No. 1432, made on June 26, 1915, this sum is sufficient to more than pay to the present owners of this water system their entire investment up to June 30, 1915, together with interest at the rate of 8 per cent per annum, and all

deficits in earnings over maintenance and operating expenses, with interest at the rate of 8 per cent per annum thereon.

The property for which said compensation of \$745,000.00 was fixed includes in addition to property which is now used and useful in the service to the public, other property which is not used and useful and which hence should not be considered in a rate proceeding. Subsequent to June 30, 1915, additions and betterments have been made to the property. During the same period, a considerable amount of property of the Cuyamaca company was destroyed by floods in January, 1916, a portion of which property has not been replaced.

Table I shows additions and betterments and deductions, for the purpose of assisting in the determination of a proper rate base as of June 30, 1916.

TABLE I.

*Additions and betterments and deductions—Property of Cuyamaca Water Company—
June 30, 1916.*

Just compensation for sale purpose:

June 30, 1915..... \$745,000 00

ADDITIONS.

Additions and betterments—June 30, 1915, to June 30, 1916.

Without overhead	\$11,284 00	
Overhead, 10 per cent.....	1,128 00	
		<u>12,412 00</u>
		\$757,412 00

DEDUCTIONS.

Property not now used and useful:

Grossmont reservoir	\$4,747 00
Grossmont pump plant.....	1,725 00
Grossmont distributing system.....	3,160 00
Miles reservoir No. 1.....	2,687 00
Miles reservoir No. 2.....	715 00
Miles pump plant	1,196 00
Kuhner lands	2,875 00
Grossmont lands	820 00
Miles reservoir No. 1 lands.....	1,104 00
Miles reservoir No. 2 lands.....	210 00
Monte pump plant steam equipment.....	2,295 00
Eight per cent interest for two years on above items.....	3,445 00
Nonoperative reservoir expenditures.....	10,248 81
	<u>\$35,227 81</u>

Net flood damage:

Property included in compensation of \$745,000.00, there- after destroyed by flood and not replaced.....	7,000 00
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Excess estimate capital expenditures:

January 1, 1915, to June 30, 1915.....	<u>6,508 00</u>
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Total deductions	<u>48,735 81</u>
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Net total	<u>\$708,676 19</u>
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The properties referred to as the Grossmont and Miles properties under the head of "Property not now used and useful" in Table I are actually being used, but only to supply a very few customers. These customers could not possibly pay rates on the entire investment used specially for their service, nor would it be fair to the other customers under this system to pay rates on this excess investment. The rates which we shall herein establish for the other portions of the Cuyamaca company's system will be applied to the consumers served by the Grossmont and Miles properties.

The item of "Excess estimate capital expenditures, January 1, 1915, to June 30, 1915," was included in the total compensation of \$745,000.00 at the total sum of \$33,741.00. The actual expenditure subsequently reported to the Railroad Commission by the Cuyamaca company for this period was the sum of \$31,418.00, consisting of \$29,733.00 alleged to have been expended on used and useful property and \$1,685.00 expended on nonoperative property. The testimony herein shows that the sum of \$29,733.00 improperly includes under the head of capital expenditures an item of \$2,294.00 for interest and casualty insurance and an item of \$2,682.00 for water rights. Subtracting these items from the sum of \$29,733.00 leaves a net addition to capital account for used and useful property during said period amounting to \$24,757.00, to which sum should be added 10 per cent for overhead expenses, making a net addition to capital account during this period for operative property amounting to \$27,233.00. This sum is \$6,508.00 less than the amount which was included in the compensation of \$745,000.00, and said sum of \$6,508.00 must now be deducted from said compensation.

The sum of \$745,000.00 hereinbefore referred to, was found by the Railroad Commission to be the just compensation to be paid for the property of the Cuyamaca company described by the La Mesa district and by the city of San Diego in their respective petitions. The property thus described, included—with the exception of 601 acres of land at Cuyamaca Lake and certain other property—the Cuyamaca company's entire system.

In determining the proper rate base in this proceeding, careful consideration must be given to the fact that, as shown by the testimony herein, the Cuyamaca company's transmission system is largely overbuilt in so far as the present demands upon the system are concerned. The testimony herein shows that the Cuyamaca company's flume line has a present capacity of 32 cubic feet per second, or approximately 21,000,000 gallons per day. The testimony also shows that the highest average daily use on the flume line was in the month of May, 1916, during which month the flow was an average daily flow of 12.58 cubic feet per second, of which amount 6 cubic feet per second represented water which was being transmitted for sale to the city of San Diego,

The excess capacity of the Cuyamaca company's transmission system was commented upon by the Railroad Commission in its said Decision No. 2531, made on June 26, 1915, in said Application No. 1432 (Vol. 7, Opinions and Orders of the Railroad Commission of California, pages 334, 380). In this connection we may say that of said compensation of \$745,000.00, approximately two-thirds may be taken as representing the Cuyamaca company's transmission system as distinguished from its production and distribution systems.

That existing customers of a water utility can not fairly be called upon to pay a return on construction unreasonably in excess of present requirements is clearly established by the authorities. *San Diego Land and Town Company vs. Jasper*, 189 U. S. 438.

Accordingly, it would be proper in this proceeding to make the necessary deduction by reason of excess capacity of the transmission system, from the sum which otherwise would be used as a rate base, with a corresponding reduction in the depreciation annuity, and to establish the rates on such reduced base. However, this procedure has not been followed herein, because of other considerations which we shall hereinafter specify and which have resulted in the establishment of a considerably increased rate base in this proceeding.

From the very beginning the customers under this system have urged that it would not be fair to increase their rates unless they were assured of a greater permanency of water supply. The consumers have drawn attention to the fact that during recent years they have suffered great damage to their crops by reason of the fact that there has been an insufficient supply of water under this system. The deficiency in supply has been caused largely by inadequate storage facilities, aggravated by a recurrence of years of drought. The Railroad Commission has consistently been of the opinion that the consumers were correct in their contention in this respect. Accordingly, in the decision rendered in Application No. 118, authorizing an increase in the rates to be charged by the Cuyamaca company, the Railroad Commission not merely provided that a satisfactory flume should be constructed in lieu of the existing flume, but also provided further that the Cuyamaca company should take immediate steps to increase the available supply of water so that the same should be increased over the existing supply at least 33½ per cent. After referring to the necessity for thus increasing the available supply of water, the Railroad Commission provided that if "these applicants do not within a reasonable time in the opinion of the commission begin the construction of *other facilities than the ones specifically ordered herein*, this matter being held open for decision and for the further submission of evidence, will again be considered

by this commission after due notice to the applicants and the parties hereto as required by law."

While the Cuyamaca company has lined its flume so as to reduce the leakage therein from between 30 to 35 per cent to approximately 3 per cent and has raised the height of the flume, installed additional siphons and done other work to make the existing transmission system more effective, the Cuyamaca company has not increased its storage facilities. The consumers in this proceeding insist that the Cuyamaca company, as a condition precedent to any further increase in rates, should now be compelled to increase its storage facilities by undertaking definite construction work to be now specified by the Railroad Commission.

The representatives of the Cuyamaca company testified herein that they have prepared plans and specifications for increasing the height of the La Mesa dam so as to store water to a depth of 100 to 120 feet. Mr. Ed Fletcher testified that the present capacity of La Mesa reservoir is 451,000,000 gallons; that by increasing the height of La Mesa dam to store 100 feet of water the capacity of La Mesa reservoir will be increased to approximately 4,000,000,000 gallons and that by increasing the height of La Mesa dam to store 120 feet of water, the capacity of La Mesa reservoir will be increased to between 6 and 7,000,000,000 gallons. Mr. Fletcher testified that the suggested improvements at La Mesa reservoir will cost approximately \$150,000.00 if the height of the dam is increased to store 100 feet of water, and between \$225,000.00 and \$250,000.00 if the height of the dam is increased to store 120 feet of water. He further testified that if additional storage facilities are developed anywhere under this system, the first work to be done would be to increase the height of La Mesa dam.

On the testimony in this proceeding it appears that the suggested increase in the height of La Mesa dam is feasible and that the work ought to be done.

In establishing rates, the Railroad Commission generally takes into consideration such additions to capital account as may reasonably be anticipated during the next year.

In the present proceeding, the rate base will be established on the assumption that La Mesa dam will be increased in height to store 100 feet of water. The necessary additional allowances will be made herein under the head of capital account and also under the head of depreciation annuity and maintenance and operating expenses in connection not merely with the construction work on the dam itself but also the distribution system necessary to take care of the increased amount of water which the Cuyamaca company will be able to sell when this construction work has been completed. The rates herein established will thus be based on the assumption that the Cuyamaca company will substantially

increase its storage capacity and thus give its consumers the increased security for which they have been contending.

By reason of the much larger supply of water which will be available to the Cuyamaca company if the capacity of La Mesa reservoir is thus increased, the company will be able to secure a much larger gross revenue from the sale of water than has hitherto been the case. While this fact will result in giving to the consumers under the Cuyamaca company's system a considerably lower rate than would be the case if the rates in this proceeding were based on the present property less excessive installation and on the present limited use, the increase in storage capacity of the La Mesa reservoir is an improvement to which the consumers are justly entitled as well as one which will materially strengthen the position of the Cuyamaca company.

Accordingly, in establishing the rate base herein, an additional allowance of \$150,000.00 will be made on the assumption that the height of La Mesa dam will be increased during the next year so that it will store 100 feet of water.

4. Depreciation Annuity.

The depreciation annuity in this proceeding will be estimated on the sinking fund basis on such depreciable property as is now used and useful in the service of water to the Cuyamaca company's consumers together with said additional investment of \$150,000.00.

On the 5 per cent sinking fund basis, the depreciation annuity would be the sum of \$20,035.00.

On the 6 per cent sinking fund basis, being the rate herein used, the depreciation annuity would be the sum of \$17,999.00.

5. Maintenance and Operating Expenses.

Table II shows, by accounts, the maintenance and operating expenses shown on the books of the Cuyamaca company for the year 1915, the estimate of reasonable maintenance and operating expenses prepared by the Railroad Commission's engineers and the estimate of reasonable maintenance and operating expenses prepared by the Cuyamaca company's engineers.

TABLE II.

Maintenance and Operating Expenses—Cuyamaca Water Company.

Acct. Nos.	Item	Actual records, 1915	Estimates	
			Railroad Commission's engineers	Cuyamaca company's engineers
E-2, 6, 7, 9, 10, 18 E-8, 17	Pumping expense— Pumping cost proper	\$1,656 00	\$4,770 00	\$11,666 00
	Purification expense	272 00	750 00	750 00
	Distribution expense—			
E-19	Reservoir tenders	436 00	1,320 00	1,320 00
E-20	Meter repairs and supply	693 00	500 00	700 00
E-23	Repair transmission mains	7,737 00	8,320 00	13,525 00
E-24	Repair reservoirs	1,702 00	800 00	1,080 00
E-25	Repair distributing mains	5,049 00	5,000 00	6,000 00
E-27	Repair services	1,409 00	700 00	1,420 00
E-29, 30	Repair buildings and equipment	100 00	200 00	
	Commercial expense—			
E-31	Collections—meter reading	441 00	500 00	360 00
E-32	Promotion of business	38 00		
	General expense—			
E-33	Salaries, general officers	10,394 00	6,500 00	12,300 00
E-34	Salaries, general office clerks	2,485 00	2,600 00	2,600 00
E-35	Office supplies and expense	2,417 00	2,500 00	2,500 00
E-36	Legal expense	156 00	1,000 00	1,000 00
E-37	Railroad Commission expense	17,813 00	2,000 00	2,500 00
E-42	Insurance—injuries and damages	652 00	800 00	2,650 00
E-43	Repair general structures	448 00	350 00	450 00
E-44	Upkeep general equipment	1,818 00	1,760 00	
	Auto and stable expense			1,600 00
	General engineering		1,200 00	1,800 00
	Extraordinary		2,500 00	1,000 00
	Other general expense	1,635 00		
E-50	Taxes	2,601 00	2,600 00	2,800 00
		\$59,951 00	\$46,670 00	\$67,971 00
	Less \$2,000 general, as overhead or con- struction, etc.	2,000 00	2,000 00	2,000 00
		\$57,951 00	\$44,670 00	\$65,971 00
	Less Railroad Commission expense	17,813 00	2,000 00	2,500 00
	Net result	\$40,138 00	\$42,670 00	\$63,471 00

The expenditures under the head of "Actual Records" for the year 1915, as shown in Table II, include a number of abnormally high expenditures. Reference in this respect may be made particularly to the items for Railroad Commission expense and salaries of general officers.

The estimate of reasonable maintenance and operating expenses prepared by the Railroad Commission's engineers includes an item of

\$2,500.00 for "extraordinary expense." This item will suffice to amortize, over a period of years, the flood damage caused by the floods of January, 1916.

The estimate of reasonable maintenance and operating expenses prepared by the engineers of the Cuyamaca company include a number of items which are clearly too high, including particularly the estimate for pumping expense and for salaries of general officers. The estimate of \$13,525.00 for repairs to transmission mains includes expenditure which in part should be charged to depreciation annuity.

Taking the estimate of the Railroad Commission's engineers as a basis, and adding thereto an allowance of \$1,330.00 for an additional bookkeeper and \$2,000.00 for the additional maintenance and operating expenses which would be incurred in connection with the impounding, distribution and sale of the additional water which is to be impounded in the La Mesa reservoir, we find a total reasonable maintenance and operating expense of \$48,000.00 per annum, on the assumption that the Cuyamaca company sells the additional water which is to be impounded in the La Mesa reservoir.

6. Capacity of System—Present and Prospective.

In said Decision No. 536, in said Application No. 118, the Railroad Commission found that the safe yield of the system was 256 miner's inches at the intake of the Cuyamaca company's flume.

Subsequent to said Decision No. 536, the Cuyamaca company has lined its flume throughout with roofing material, reducing the leakage as hereinbefore indicated, from between 30 and 35 per cent to approximately 3 per cent in the flume. Additional sideboards have been placed on the flume and a second siphon installed under Sand Creek. A new flume has also been constructed from the main flume up the canyon of the south fork of the San Diego River, tapping that stream.

Mr. C. H. Lee, a hydraulic engineer appearing in behalf of the Cuyamaca company, testified as the result of an exhaustive study, that with its present storage and carrying capacity, the Cuyamaca company's system may be depended upon to deliver 320 nine-months miner's inches. In addition, Mr. Lee estimated that an average of 356 nine-months miner's inches, being equivalent to 169,000,000 cubic feet or 1,260,000,000 gallons, is available for delivery during the flood season. By increasing the height of La Mesa dam, additional flood waters can be stored and thereafter sold for domestic and irrigation service.

In the order in said Decision No. 536, in said Application No. 118, it was provided, in part, "that no additional consumers be added to this system except *domestic* consumers under the terms hereinbefore in this opinion and order set out." This order was based on the net safe

yield of the Cuyamaca company system in March, 1913. The improvements which have subsequently been made by the Cuyamaca company now make it possible to authorize the Cuyamaca company to sell additional water for irrigation purposes. The testimony herein shows that consumers of the Cuyamaca company in Lemon Grove and elsewhere desire to secure additional water for their existing orchards and that other persons desire to bring new lands under cultivation if they can secure water from the Cuyamaca company.

Mr. Ed Fletcher, one of the owners of the Cuyamaca company, testified that, in his opinion, it will now be possible for the Cuyamaca company, without increasing the height of La Mesa dam, to sell in the ordinary course of business between 25 and 50 additional miner's inches of water for irrigation. We are satisfied, from the testimony herein, that the Cuyamaca company may now take on additional irrigation service to the extent of approximately 40 miner's inches. This water, if applied to land now unirrigated, on the basis of the application of one foot depth of water, would irrigate approximately 450 additional acres planted to such crops as prevail in this territory.

From the evidence in the record herein, it would appear that when the height of La Mesa dam has been increased so as to store 100 feet of water, an additional amount of water amounting to 2,090 acre feet or 91,440,400 cubic feet will be available for annual delivery to consumers in excess of the use in 1915 by consumers other than the city of San Diego.

7. Rates Herein Established.

This subject will be considered under the following subheads:

- (a) Gross revenue required.
- (b) Use by city of San Diego.
- (c) Group consumers.
- (d) Form of rate.
- (e) Just and reasonable rates.

(a) Gross Revenue Required.

Table III shows the gross revenue which would be required by the Cuyamaca company on the assumption that the height of the La Mesa dam will be increased to store 100 feet of water.

TABLE III.

Gross Revenue Required by Cuyamaca Water Company on Assumption of Increase in Height of La Mesa Dam to Store 100 Feet of Water.

Interest—8 per cent on \$858,676.00.....	\$68,694 08
Depreciation annuity	17,999 00
Maintenance and operating expenses.....	48,000 00
Total	\$134,693 08

Table IV shows the gross revenue derived by the Cuyamaca Water Company during the years 1914 and 1915 and the first six months of 1916:

TABLE IV.

Gross revenue—Cuyamaca Water Company—1914, 1915 and First Six Months of 1916.

<i>1914.</i>	
Commercial earnings (metered)	\$20,178 17
Earnings from irrigation	15,475 08
Sales to city of San Diego	16,046 24
Miscellaneous earnings	590 70
Total revenue	\$52,290 19

<i>1915.</i>	
Commercial earnings (metered)	\$20,323 00
Earnings from irrigation	25,178 78
Sales to city of San Diego	34,884 64
Miscellaneous earnings	1,369 47
Total revenue	\$81,755 98

<i>First six months—1916.</i>	
Commercial earnings (metered)	\$10,154 44
Earnings from irrigation	12,739 52
Sales to city of San Diego	51,054 14
Miscellaneous earnings	381 46
Total revenue	\$74,329 56

The amount of water available for sale by the Cuyamaca company during 1914, 1915 and 1916 and the revenue possible to be derived therefrom were, of course, far less than will be the case when the height of La Mesa dam has been increased and the storage capacity of La Mesa reservoir augmented.

(b) Use by City of San Diego.

The water sold by the Cuyamaca company to the city of San Diego in 1914, 1915 and the first six months of 1916, was as follows:

1914	22,898,000 cubic feet
1915	50,077,000 cubic feet
1916, first 6 months	68,245,000 cubic feet

As appears from Table IV, the revenue derived by the Cuyamaca company from the sale of water to the city of San Diego, was as follows:

1914	\$16,046 24
1915	34,884 64
1916, first 6 months	51,054 14

As is to be expected, the testimony in this proceeding does not show definitely how much water the city of San Diego will hereafter purchase from the Cuyamaca company. That a considerable amount of water will

be thus bought, at least for a number of years, seems probable. The water heretofore sold to the city by the Cuyamaca company has been surplus water. We are of the opinion that the price to be paid for such water, if the city of San Diego hereafter continues to purchase the same, should be left, in the first instance, to negotiations between the parties, who may file with the commission such rate as they may agree upon. It may be said in this connection that it is almost impossible to establish with exact scientific accuracy the rate to be paid for a surplus product such as the surplus water of the San Diego River.

Certain evidence was presented herein by the Cuyamaca company with reference to the cost to the city of San Diego of delivering water from its system at the gates of the city. The evidence thus presented is thoroughly inaccurate, unsatisfactory and misleading and does not warrant detailed consideration herein.

(c) *Group Consumers.*

A considerable portion of its water is sold by Cuyamaca company to various groups of consumers under arrangements differing widely in character. In Exhibit No. 71 of Cuyamaca company, these group consumers are listed as follows:

Granada Tract.	Orchard Tract.
Fairmont Water Company.	Outlook Terrace Tract.
Hilton Pipe Line.	Petaluma Tract.
Chollas Mutual Water Company.	Waverly Tract.
DeWitt Tract.	Wheeler Tract.
Fruitvale Tract.	Wentworth Flume.
Helix Mutual Water Company.	Hoover Pipe Line.
Johnson Pipe Line.	Lakeside Flume.
La Mesa Mutual Water Company.	Hawley Pipe Line.
Lemon Grove Mutual Water Com- pany.	Hillsdale Flume.
Magruder Tract.	Cresson Flume.
Marlett Tract.	City of El Cajon.
	Orchard Villa Tract.

Table V contains data with reference to group consumers of the Cuyamaca company for the year 1915, as reported in Exhibit No. 71 of the Cuyamaca Water Company.

TABLE V.
Group Consumers—Cuyamaca Water Company—1915.

Tract or association	No. of irriga- tion con- sumers	No. of domes- tic con- sumers	Irrigation use in 1,000 gallons	Cost per 1,000 gallons	Domestic use in 1,000 gallons	Cost per 1,000 gallons	Total use in 1,000 gallons	Cost per 1,000 gallons	Cost to reproduce pipe system
Granada Tract	26	6	3,452.5	\$0.028	372.9	\$0.150	3,825.4	\$0.040	\$850 00
Fairmont Water Company		325			23,631.0	.141	23,631.0	.141	19,523 00
Hilton Pipe Line	11		11,767.4	.029			11,767.4	.029	2,150 00
Chollas Mutual Water Company	20	7	8,069.9	.036	698.7	.140	8,793.6	.045	2,800 00
DeWitt Tract	2		622.2	.120			622.2	.120	100 00
Fruitvale Tract	6	1	1,801.8	.033	69.2	.176	1,871.0	.039	380 00
Helix Mutual Water Company	17	3	109,229.5	.018	1,583.5	.173	110,813.0	.020	8,500 00
Johnson Pipe Line	3		5,922.6	.048			5,922.6	.048	1,320 00
La Mesa Mutual Water Company	3	83	2,961.1	.036	20,598.5	.150	23,559.6	.136	10,000 00
Lemon Grove Mutual Water Company	88	85	161,690.2	.021	4,770.3	.202	166,460.5	.027	24,408 00
Magruder Tract	4	2	803.3	.037	103.4	.174	906.7	.053	500 00
Marlett Tract	7	11	1,769.2	.043	406.6	.185	2,175.8	.069	850 00
Orchard Tract	4	15	1,744.2	.021	512.6	.224	2,256.8	.067	825 00
Outlook Terrace Tract	4	18	817.6	.044	1,410.2	.150	2,257.8	.112	1,200 00
Petaluma Tract	2	6	367.1	.020	339.4	.162	706.5	.088	300 00
Waverly Tract	3	3	*	*	*	*	969.1	.045	220 01
Wheeler Tract	1	7	*	*	*	*	828.4	.075	275 00
Wentworth Flume	2		0.0		0.0		0.0		150 00
Hoover Pipe Line	9		29,629.8	.019			29,629.8	.019	2,000 00
Lakeside Flume	7		62,890.7	.021			62,890.7	.021	4,500 00
Hawley Pipe Line	30		164,087.1	.018			164,087.1	.018	5,076 00
Hillsdale Flume	6		32,979.9	.019			32,979.9	.019	3,000 00
Cresson Flume	8		38,031.5	.018			38,031.5	.018	2,700 00
Totals	263	572	638,667.6	\$0.020	54,521.3	\$0.152	695,016.4	\$0.031	\$91,627 00

*Segregation between domestic and irrigation use in 1915 was not correct. Totals only can be depended upon.

Service to these various group consumers is rendered under many different conditions and divers rules and regulations. In some instances, the water is delivered and sold at the Cuyamaca company's flume or pipe line according to the quantity there indicated by meter or otherwise. In other instances, the water is sold according to measurements shown by meter at the premises of the consumer. In some cases the Cuyamaca company maintains the distributing system from its flume or pipe line to the premises of the consumer, while in other cases such distributing systems are maintained by the consumers either through mutual organization or otherwise. In some instances, the Cuyamaca company reads the meters on the premises of the consumers, while in other instances the company is not permitted to do so and the meter is read by some agent of the consumers, selected by them. In some instances, the consumers are dealt with individually and in other instances, through an agent. In some instances, water used by these groups of consumers primarily for domestic purposes is sold at irrigation rates and in other instances water used by them primarily for irrigation purposes is sold at domestic rates.

The testimony also shows that in quite a number of instances, resulting from the attachment of a water right for a small amount of water to land which was thereafter subdivided and sold, each parcel sold securing its proportion of the original water right, quite a number of consumers of the Cuyamaca company are receiving their water at indefensibly low rates. Exhibit No. 76 of the Cuyamaca company shows the cases in which so-called irrigation consumers are securing their water for 75 cents or less per month. These consumers use water for household purposes and for irrigation of gardens. In a number of these instances the rates paid run as low as 25, 30 and 40 cents per month. Exhibit No. 76 shows that 64 so-called irrigation consumers of the Cuyamaca company received their water for 75 cents per month or less.

All in all, the relationship between the Cuyamaca company and its various group consumers presents the most complicated and one of the most unsatisfactory conditions which has come to our attention in connection with the administration of any water system in this state.

It is essential that order should be brought out of this chaos and that, in so far as possible, uniform and nondiscriminatory rates, rules and regulations should be enforced.

In our opinion, the difficulties in connection with the present group consumers should be solved by providing that the relationship between the Cuyamaca company and the consumers should, in each instance, be one of the other of the following two relationships:

1. In the first group of cases, the group consumers would pay for the water received by them, at the block rate herein established, the

water to be measured at the Cuyamaca company's transmission line, the group consumers to distribute the water among themselves and to maintain and repair their distributing system.

2. In the second group of cases, the Cuyamaca company would deal directly with each member of the group, delivering the water at his premises and collecting directly from him, in accordance with the amount of water sold to him, at the block rates herein established. In this group of cases, the Cuyamaca company would itself maintain and repair the distributing system. In cases of this class in which the Cuyamaca company does not now own the distributing system, the Cuyamaca company would either acquire the present distributing system or construct its own distributing system to reach the existing consumers.

In cases of the second group, in which the Cuyamaca company deals directly with each consumer, there would be little or no difficulty in applying the block rate herein established. If the consumer is a large user and is engaged in commercial irrigation, he will, of course, receive the irrigation rate for water sold in excess of 2,000 cubic feet per month.

If a particular group prefers to remain in the first group hereinbefore referred to, paying for its water through its agent, by measurement at the Cuyamaca company's transmission system, the amount to be paid by the group monthly to the Cuyamaca company will likewise be easy of determination except in those cases in which the monthly use exceeds 2,000 cubic feet and in which there is some question as to whether the use is or is not primarily an irrigation use. The matter becomes important by reason of the fact that the rate herein established is of a two-fold character in so far as use in excess of 2,000 cubic feet per month is concerned, one rate being applicable to general use and the other to irrigation use.

In order to remove possible causes for friction, we would say, that as now advised, and until the further order of the Railroad Commission, the group users hereinbefore specified, if they prefer to remain in the first group, and to deal with the Cuyamaca company through an agent, will be regarded as entitled to the irrigation rate for water used in excess of 2,000 cubic feet per month, with the exception of the following groups, whose use is entirely or almost entirely of a domestic character :

Fairmont Water Company.
La Mesa Mutual Water Company.
Granada Tract.
Marlett Tract.
Outlook Terrace Tract.

Petaluma Tract.
Waverly Tract.
Wheeler Tract.
City of El Cajon.
Orchard Villa Tract.

The testimony shows that a number of members of the groups just stated are using their water clearly for irrigation purposes. We refer particularly to the testimony showing that three consumers who secure their water from La Mesa Mutual Water Company and at least one who secures it from Outlook Terrace Tract, are commercial irrigation consumers. In cases of this kind, if the group deals with the Cuyamaca company in accordance with the first group of cases, it may be necessary to make some special arrangement, possibly consisting in the direct connection between the property of these consumers and the Cuyamaca company's system.

(d) *Form of Rate.*

As hereinbefore indicated, considerable difficulty has arisen in the application of the Cuyamaca company's present rates by reason of the attempt to make a distinction between water used by small consumers for so-called "domestic" service and so-called "irrigation" service. The difficulties and discriminations which have resulted from this attempt must be herein removed.

After giving careful consideration to the matter, we have reached the conclusion that the just, reasonable and effective way to handle this problem would be to establish a block rate, applicable alike to all consumers under the same conditions. This block rate will provide a uniform rate for general use, with a separate rate for irrigation use in excess of 2,000 cubic feet per month.

Minimum monthly payments will also be provided for and rates will be established for public use.

(e) *Just and Reasonable Rates.*

Table VI shows water delivered by the Cuyamaca company in 1915 segregated into classes of service and blocks of use.

TABLE VI.

Water Delivery—Cuyamaca Water Company—Segregated Into Classes of Service and Blocks of Use by 100-Foot Units—1915.

	Con- sumer months	Used between indicated limits						Total
		0-4	4-10	10-50	50-1,000	1000- 5,000	Above 5,000	
Domestic and general—								
Company direct service.....	7,503	21,612	11,852	6,242	3,270	-----	-----	42,976
System groups	98	392	558	3,608	22,267	4,215	-----	31,040
Fairmont Water Co.	12	48	72	480	10,305	20,552	-----	31,457
La Mesa Mutual Water Co..	12	48	72	480	9,358	21,534	-----	31,432
El Cajon	5	20	30	200	822	-----	-----	1,072
San Diego	6	24	36	240	5,700	24,000	479,767	500,767
Totals	7,636	22,144	12,620	11,250	51,722	70,301	479,767	638,894
10-20 above 20								
Domestic and irrigation—								
Company direct service.....	1,722	5,702	7,791	13,430	485,130	-----	-----	512,053
System groups	158	631	918	1,410	82,017	-----	-----	834,976
Totals	1,880	6,333	8,709	14,840	1,317,147	-----	-----	1,347,029
Grand totals	9,615	28,477	21,329	26,090	1,909,937	-----	-----	1,985,833

After careful consideration of the entire evidence herein and of all the elements which may and should be considered in determining a rate, we find as a fact that the rates shown in Table VII, which rates will be set forth in the order herein, are just and reasonable rates to be charged by the Cuyamaca company for water sold to its customers:

TABLE VII.

Rates to Be Charged by Cuyamaca Water Company for Water Sold to Its Customers.

Minimum payments for each service connection in use:

Inside diameter, $\frac{3}{4}$ -inch and less.....	\$1.00 per month
Inside diameter, 1-inch.....	1.25 per month
Inside diameter, $1\frac{1}{4}$ -inch.....	1.75 per month
Inside diameter, 2-inch.....	3.25 per month
Inside diameter, 3-inch and larger.....	4.00 per month

General use:

Between 0 and 1,000 cubic feet.....	\$.25 per 100 cu. ft. per mo.
Between 1,000 and 5,000 cubic feet.....	.15 per 100 cu. ft. per mo.
Between 5,000 and 100,00 cubic feet.....	.12 per 100 cu. ft. per mo.
Above 100,000 cubic feet.....	.08 per 100 cu. ft. per mo.

Irrigation use:

Above 2,000 cubic feet.....	.02 $\frac{1}{2}$ per 100 cu. ft. per mo.
-----------------------------	---

Public use:

Fire service, per hydrant per month.....	2.00
Street sprinkling and sewer flushing.....	.12 per 100 cu. ft. per mo.

Other public use through separate services at general rates, one minimum for each service.

Table VIII shows the results of the application of the rates herein established upon water sold in the year 1915, except for public use, and with the application of only the lowest minimum meter charge.

TABLE VIII.

Application of Rates Herein Established to Water Sold by Cuyamaca Water Company in 1915.

	Consumer months	Water used	Rate	Income
General use—				
Minimum -----	9.510		Minimum, \$1.00 -----	\$9,510 00
0- 4 C. cu. ft. -----		28,453	Under minimum -----	
4- 10 C. cu. ft. -----		21,293	25¢ per C. cu. ft. -----	5,323 00
10- 50 C. cu. ft. -----		25,850	15¢ per C. cu. ft. -----	3,877 00
50-1,000 C. cu. ft. -----		46,022	12¢ per C. cu. ft. -----	5,523 00
1,000-5,000 C. cu. ft. -----		46,301	8¢ per C. cu. ft. -----	3,704 00
Irrigation use—				\$27,937 00
Above 20 C. cu. ft. -----		1,317,147	2½¢ per C. cu. ft. -----	32,929 00
San Diego use—				\$80,866 00
Below 5,000 -----	6	30,000	\$442 50 per month--	\$2,655 00
Above 5,000 -----		470,767	08 C. cu. ft. -----	38,661 00
				\$41,316 00
Total, as of 1915. -----				\$102,182 00

The total gross revenue of \$102,182.00 resulting from the application of the rates herein established to the actual business of 1915, makes no allowance for the increase in revenue which will result to the Cuyamaca company by direct service to consumers on the group distribution mains. The application of the proposed schedule of rates to all the group systems with the exception of those of the La Mesa Mutual Water Company, Chollas Mutual Water Company, Helix Mutual Water Company and Lemon Grove Mutual Water Company, under conditions of direct service to each individual consumer, would result in additional returns of approximately \$4,400.00 annually.

We have already drawn attention to the fact that when the La Mesa dam has been increased so as to store 100 feet of water, an additional amount of water amounting to 2,090 acre-feet, or 91,440,400 cubic feet, will be available for annual delivery to consumers in excess of the use in 1915 by consumers other than the city of San Diego.

Assuming that the additional supply available from the increase in capacity of La Mesa reservoir will be used for irrigation on 10 acre tracts and that a year's use of water on each such tract will be sufficient to cover land one foot deep, a use of 435,600 cubic feet, there will be derived from such additional water supply, under the rates herein established, an additional gross income of \$36,554.00. If this water

had been available and sold in 1915, the total gross revenue from one year's business, based on the rates herein established, would have been \$138,736.00.

The rates herein established we find to be just and reasonable rates to be charged by the Cuyamaca company to its various consumers, irrespective of the amount of water hereafter sold by the Cuyamaca company to the city of San Diego.

For many years, the Cuyamaca company's main source of revenue was the sale of water in the city of San Diego. Until the city of San Diego purchased the local water distributing system and turned from the Cuyamaca company to the so-called Spreckels system for its water, the Cuyamaca company derived the larger part of its revenue from the sale of water in San Diego. Without the city of San Diego as a prospective customer, the construction of this system would not have been justified and probably would not have been undertaken. The loss by the Cuyamaca company of this customer at the time the city of San Diego began to take water from the Spreckels system was not the fault of the other consumers of the Cuyamaca company, nor can the possible failure of the Cuyamaca company hereafter to sell large quantities of water to the city of San Diego be a justification for charging to the company's other customers rates in excess of the just and reasonable rates herein established.

As hereinbefore appears, if the rates herein established had been in effect in 1915, the revenue derived by the Cuyamaca company from the sale of water to the city of San Diego would have been \$41,316.00. From the testimony herein, it is reasonable to anticipate an average revenue in approximately this amount from the sale of water to the city of San Diego over a number of years to come. We want to make it perfectly clear, however, that if the city of San Diego does not purchase water from the Cuyamaca company to that extent, such failure will not be a sufficient reason for increasing the rates of the other customers of the Cuyamaca company, as herein established. In that event, the loss must be borne by the Cuyamaca company just as would be the case if any other business constructed primarily to serve a single large customer should thereafter lose that customer. In such a contingency, it would be incumbent on the Cuyamaca company to find other customers for its surplus water.

8. Rules and Regulations.

The Cuyamaca company will be required to modify its rules and regulations to meet the changed conditions resulting from the application of the rates herein prescribed.

One of the most important provisions which should be inserted in such revised rules and regulations will refer to the sale of the additional

water herein referred to. The rules or regulations should provide, in this regard, that first choice should be given, during a reasonable period of time, to existing consumers of the Cuyamaca company for use on lands now under irrigation. After the reasonable requirements of these consumers have been met, water should be sold to other parties, under some equitable rule with reference to priority of application, and in such amounts only as are actually needed at the time. The privilege of acquiring additional water from the Cuyamaca company will not be permitted to be used as the basis for speculation in the sale of lands not now entitled to water.

We submit the following form of order:

ORDER.

James A. Murray and Ed Fletcher having filed their petition in the above entitled proceeding, as set forth in the opinion which precedes this order, and a public hearing having been held thereon and this proceeding having been submitted and being now ready for decision,

The Railroad Commission hereby finds as a fact that the rates charged for water by said James A. Murray and Ed Fletcher, doing business under the firm name and style of Cuyamaca Water Company, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing findings of fact and on the findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered as follows:

1. James A. Murray and Ed Fletcher, doing business under the firm name and style of Cuyamaca Water Company, are hereby authorized to charge and collect the following rates for water, said rates to be effective on and after March 1, 1917:

Minimum payments for each service connection in use.

Inside diameter, $\frac{1}{2}$ -inch and less.....	\$1.00 per month
Inside diameter, 1-inch	1.25 per month
Inside diameter, 1 $\frac{1}{2}$ -inch	1.75 per month
Inside diameter, 2-inch.....	3.25 per month
Inside diameter, 3-inch and larger.....	4.00 per month

General use.

Between 0 and 1,000 cubic feet.....	\$.25 per 100 cu. ft. per mo.
Between 1,000 and 5,000 cubic feet.....	.15 per 100 cu. ft. per mo.
Between 5,000 and 100,000 cubic feet.....	.12 per 100 cu. ft. per mo.
Above 100,000 cubic feet.....	.08 per 100 cu. ft. per mo.

Irrigation use.

Above 2,000 cubic feet.....	.02 $\frac{1}{2}$ per 100 cu. ft. per mo.
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Public use.

Fire service, per hydrant per month.....	\$2.00
Street sprinkling and sewer flushing.....	.12 per 100 cu. ft. per mo.

Other public use through separate services at general rates, one minimum for each service.

2. On or before February 15, 1917, said Cuyamaca Water Company shall file with the Railroad Commission revised rules and regulations in accordance with the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of January, 1917.

DECISION No. 4059.
COUNTY OF CONTRA COSTA
vs.
OAKLAND, ANTIOCH AND EASTERN RAILWAY.

Case No. 1018.

Decided January 26, 1917.

County of Contra Costa granted permission to close what is known as Jonah Hill road and, in lieu thereof, to open at grade across tracks of Oakland, Antioch and Eastern Railway a road crossing approximately 1,200 feet southerly.

Thos. D. Johnston, District Attorney of Contra Costa County, for Complainant.

H. A. Mitchell, for Defendant.

J. E. Rodger and *A. F. Bray*, for Protestants.

Robert E. Fitzgerald, for Moraga Company.

GORDON, Commissioner.

OPINION.

In this proceeding the county of Contra Costa asks permission to abandon one grade crossing and to open another across the tracks of the Oakland, Antioch and Eastern Railway. Although it has been initiated in the form of a complaint, it is to all intent and purpose a formal application, and it was so considered at the hearing.

The Jonah Hill road crosses the tracks of the Oakland, Antioch and Eastern Railway at a sharp angle near what is known as the Willow Spring schoolhouse in the unincorporated town of Moraga. The county desires to abandon this crossing, and in lieu thereof to construct a new crossing, or rather to dedicate an existing private crossing, 1,200 feet southerly from it, connecting the Redwood Canyon road, on the east side of the track, with a road laid out in the Moraga subdivision, west of the track, and adjacent to the railroad's right of way. By doing this a better road would be secured, a more favorable crossing would be made, and traffic can be more conveniently cared for.

The Railroad company approves this change. There is some opposition to it on the part of a few residents of Redwood Canyon, but it does not appear that the protestants will be inconvenienced beyond the slight inconvenience occasioned because the new route is a trifle longer than the present one. However, the county wishes to make the change, and as the proposed crossing will in every way be better than the crossing now used, I believe the commission should give its consent.

The road in Moraga is now but 42 feet wide. It should be widened 8 feet to correspond with the width of the section of road to be abandoned. It seems, however, unnecessary to make such provision in the order which I recommend as follows:

ORDER.

The county of Contra Costa having in this proceeding requested the permission of the commission to close one crossing and to open another in the unincorporated town of Moraga, and a public hearing having been held, and the commission having been fully apprised in the premises;

It is hereby ordered that the county of Contra Costa be and the same hereby is granted permission to close the crossing over the tracks of the Oakland, Antioch and Eastern Railway known as the Jonah Hill road and near the Willow Spring school;

It is hereby further ordered that permission be granted the county of Contra Costa to construct a public highway crossing over the tracks of the Oakland, Antioch and Eastern Railway at grade at a point 1,246 feet southerly from the center of the crossing to be abandoned, subject to the following conditions:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter, shall be borne by Contra Costa County, except for that portion between the rails and to a distance two (2) feet outside thereof which shall be borne by the Oakland, Antioch and Eastern Railway.

(2) The crossing shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign; and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The commission reserves the right to make such further orders in regard to this crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 26th day of January, 1917.

DECISION No. 4060.

PLUMAS LIGHT AND POWER COMPANY

vs.

GREAT WESTERN POWER COMPANY.

Case No. 1017.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND SYSTEM IN PLUMAS COUNTY.

Application No. 2634.*Decided January 26, 1917.*

BY THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

Plumas Light and Power Company having, on January 20, 1917, filed a petition for rehearing, and the commission being of the opinion that there is no good reason stated why a rehearing should be had.

It is hereby ordered that said application for rehearing be and the same hereby is denied.

Dated at San Francisco, California, this 26th day of January, 1917

DECISION No. 4061.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE 485,508 SHARES OF ITS COMMON STOCK OF THE PAR VALUE OF \$1.00 PER SHARE.

Application No. 2604.*Decided January 26, 1917.*

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

It is hereby ordered that Condition No. 2 of the first supplemental order in the matter herein, rendered January 8, 1917 (Decision No. 3986), reading as follows:

“2. Of the remaining 250,000 shares of said certificate of 2,000,000 shares, a special trust shall be created by the terms of which the holder of said shares or an equivalent amount of stock to be designated by Mr. Byron A. Bearce, shall agree to withhold said 250,000 shares from sale for a period of five years from date and shall further agree that in case of the sale of the properties of Tidewater Southern Railway Company—on or before five years from date, said 250,000 shares of stock shall be entitled to participate in the benefits of said sale only after the balance of the outstanding stock of Tidewater Southern Railway Company shall

have been paid at the rate of \$1.00 per share or only after an amount equal to \$1.00 per share for the balance of the outstanding stock shall have been duly deposited in a bank or banks for the benefit of the holders of said stock”;

be and it is hereby ordered amended to read as follows:

2. Of the remaining 250,000 shares of said certificate of 2,000,000 shares, a special trust shall be created by the terms of which the holder of said shares or an equivalent amount of stock to be designated by Mr. Byron A. Bearce, shall agree to withhold said 250,000 shares from sale for a period of three years from date and shall further agree that in case of the sale of the properties of Tidewater Southern Railway Company—on or before three years from date, said 250,000 shares of stock shall be entitled to participate in the benefits of said sale only after the balance of the outstanding stock of Tidewater Southern Railway Company shall have been paid at the rate of \$1.00 per share or only after an amount equal to \$1.00 per share for the balance of the outstanding stock shall have been duly deposited in a bank or banks for the benefit of the holders of said stock.

It is further ordered that said first supplemental order (Decision No. 3986) shall, except as amended in this order, remain in full force and effect.

Dated at San Francisco, California, this 26th day of January, 1917.

DECISION No. 4062.

CITY OF LOS ANGELES

vs.

PACIFIC ELECTRIC RAILWAY COMPANY

(FARES TO PALMS ADDITION.)

Case No. 891.

CITY OF LOS ANGELES

vs.

PACIFIC ELECTRIC RAILWAY COMPANY

(FARES TO BAIRDSTOWN DISTRICT.)

Case No. 892.

CITY OF LOS ANGELES

vs.

PACIFIC ELECTRIC RAILWAY COMPANY

(FARES TO HOLLYWOOD.)

Case No. 911.

CITY OF LOS ANGELES

VS.

PACIFIC ELECTRIC RAILWAY COMPANY

(FARES TO EDENDALE-RICHARDSON DISTRICT.)

Case No. 912.

Decided January 26, 1917.

Complainant petitions the Railroad Commission to establish a five-cent fare on lines of defendant between certain points within the incorporate limits of the city of Los Angeles.

1. The mere fact that two points are within the limits of an incorporated municipality is not sufficient reason why a fare of five cents should be established.
2. The reductions as applied for, if put into effect, would through a combination of local fares, effect serious reductions in through fares of defendant. Considering the losses under which it is at present operating, such reductions are not warranted.
3. The fact that sparsely settled outlying territory has been annexed to a city does not automatically operate to reduce all fares above five cents to five cents, especially when the higher rates are justifiable and is not sufficient reason why a local five-cent rate should be extended to include territory which is strictly suburban in its nature.
4. It is immaterial in the present case, whether defendant should be defined as a "street railway" or a "railroad," the five-cent fare limit must be confined to a reasonable area within the city limits. Complaint dismissed.

Albert Lee Stephens and Howard Robertson, for City of Los Angeles, Complainant.

Frank Karr, for Pacific Electric Railway Company, Defendant.

Willis I. Morrison, for Northeast Los Angeles Improvement Association, Intervener.

DEVLIN, *Commissioner*.

OPINION.

The complaints in these cases were instituted by the city of Los Angeles against the Pacific Electric Railway Company, hereinafter referred to as the company, and attack as unjust and unreasonable the one-way fares between Los Angeles, central or business district, hereinafter referred to as Los Angeles, Palms, Bairdstown, Hollywood and Edendale. The complainants in the cases also invoke the provision of section 27 of the Public Utilities Act, which, in so far as it affects the questions herein presented, reads as follows:

"No street or interurban railroad corporation shall charge, demand, collect or receive more than five cents for one continuous ride in the same general direction within the corporate limits of any city and county, or city or town, except upon a showing before the commission that such greater charge is justified; *provided*, that until the decision of the commission upon such showing, a street or interurban railroad corporation may continue to demand, collect and receive the fare lawfully in effect on November 3, 1914."

The fares complained of were lawfully in effect November 3, 1914. Complaints were amended at the hearing, April 11, 1916, to also allege discrimination.

These cases were heard at the same time and, by stipulation, evidence relevant to any one case was made applicable to the others; they are therefore consolidated and will be decided at one time.

In Case No. 891, complainant petitions for a five-cent fare, with transfer privileges, between Los Angeles and the westerly boundary of the city limits of what is known as the Palms Addition. This territory was annexed to the city of Los Angeles May 12, 1915, and the passenger stops on its western boundary are: Palms, First street, on Venice Short Line, 10.3 miles from Los Angeles (Hill Street Station); Home Junction, on Santa Monica Air Line, 13.7 miles from Los Angeles (Sixth and Main streets), and Rosemary, on Sawtelle-Santa Monica Line, 6.6 miles from Los Angeles (Hill Street Station).

The succeeding tables show the present and proposed one-way, round-trip and commutation fares between Los Angeles and stations on the western boundary of the Palms Addition; also, in the column of proposed fares, the fares which will be automatically created by adding the proposed fare of five cents to the city limits to the present fares from that point.

Venice Short Line.

Short line miles	Between LOS ANGELES and—	One-way		Round trip		30-ride		46-ride		60-ride	
		Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.
5.6	Vineyard	\$0 05	\$0 05	\$0 10	\$0 10						
6.0	Roberto	10	05	20	10	\$2 10	\$1 50	\$2 40	\$2 30		
6.5	Bonita Meadows	10	05	20	10	2 10	1 50	2 40	2 30	\$3 00	\$3 00
6.8	Hauser	10	05	20	10	2 50	1 50	2 90	2 30	4 00	3 00
8.0	Arnaz	15	05	25	10	3 00	1 50	3 45	2 30	5 00	3 00
8.5	Benkert	15	05	25	10	3 00	1 50	3 45	2 30	5 00	3 00
9.1	Culver Junction	20	05	35	10	3 00	1 50	3 45	2 30	5 00	3 00
9.4	Culver City	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
9.8	Palms, Seventh street	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
10.1	Palms, Fourth street	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
10.3	Palms, First street	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
	Los Angeles city limits.										
11.6	Ocean Park Heights	25	10	40	20	4 00	3 00	4 60	4 60	6 00	6 00
12.6	Polytechnic School	30	15	45	20						
13.4	Fredericks	30	15	45	30						
14.8	Venice	35	15	50	30						
17.2	Playa Del Rey	35	15	50	30						
15.7	Ocean Park	35	15	50	30						
17.0	Santa Monica	35	*15	50	30						

Between Los Angeles and Venice, Playa Del Rey, Ocean Park and Santa Monica 10-ride commutation ticket—present, \$2.00, proposed, \$1.50.

*Combination on Home Junction.

Redondo Beach Line.

Short line mileage	Between LOS ANGELES and --	One-way		Round trip		30-ride		46-ride		60-ride	
		Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.
10.3	Palms, First street..... Los Angeles city limits.	\$0 20	\$0 05	\$0 55	\$0 10	\$3 50	\$1 50	\$4 05	\$2 30	\$5 50	\$3 00
10.7	Ellenda	25	10	40	20	4 00	3 00				
11.4	Bundy	25	10	40	20	4 00	3 00				
11.9	Kensington	25	15	40	30						
12.8	Michaels	30	15	45	30						
13.1	Alla	30	15	45	30						
13.9	Motordrome	30	15	45	30						
15.0	Del Rey Junction	35	*15	50	30						
17.6	Hyperion	35	20	50	40						
20.5	Manhattan	35	25	50	50						
22.2	Hermosa	35	30	50	50						
24.0	Redondo	35	30	50	50						

*Held down by Home Junction combination.

Santa Monica Air Line.

8.5	Airville	\$0 10	\$0 05	\$0 20	\$0 10	\$3 00	\$1 50	\$3 45	\$2 30	\$5 00	\$3 00
10.0	Sentous ²	15	05	25	10	3 00	1 50	3 45	2 30	5 00	3 00
11.1 ¹	Culver Junction	20	05	35	10	3 00	1 50	3 45	2 30	5 00	3 00
11.7 ¹	Winslow	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
12.1 ¹	Palms Station	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
12.5 ¹	Winship	20	05	35	10	3 50	1 50	4 05	2 30	5 50	3 00
13.7 ¹	Home Junction ³	25	05	40	10	4 00	1 50	4 60	2 30	6 00	3 00
	Los Angeles city limits.										
15.6	Bergamot ⁴	30	15	45	30						
17.0	Santa Monica ⁴	35	15	50	30						
15.7	Ocean Park ⁴	35	15	50	30						
14.8	Venice ⁴	35	15	50	30						
17.2	Playa Del Rey ⁴	35	15	50	30						

¹Mileage via route of through car line.²Not inside city limits of Los Angeles.³Western limits Palms Addition.⁴10-ride: present, \$2.00; proposed, \$1.50.

Sawtelle-Santa Monica Line.

5.6	Vineyard	\$0 05	\$0 05	\$0 10	\$0 10						
5.9	Pico Road	10	05	20	10	\$2 10	\$1 50	\$2 40	\$2 30		
6.6	Rosemary	10	05	20	10	2 50	1 50	2 90	2 30	\$4 00	\$3 00
	Los Angeles city limits.										
7.4	Big Barn	15	10	25	20						
8.6	Sherman Junction	15	10	25	20						
10.2	Beverly Hills	20	*10	35	20	3 25	3 00				
11.0	Buenos Ayres	20	*10	35	20	3 50	3 00				
13.4	Sawtelle	25	†10	45	20	4 00	3 00				
15.7	Brentwood Park	30	10	45	20	4 50	3 00	5 20	4 60		
16.0	Twenty-sixth st., Santa Monica	30	10	45	20	4 50	3 00	5 20	4 60		
14.6	Cambridge	30	10	45	20	4 50	3 00	5 20	4 60		
17.0	Santa Monica	35	†15	50	30						

*Sawtelle maximum.

†Combination on Home Junction.

In Case No. 892, complainant petitions for a five-cent fare, with transfer privilege, between Los Angeles and the easterly boundary of what is known as the Bairdstown Addition. This district was annexed to the city of Los Angeles June 10, 1915, and the farthest station within

the territory is Sierra Park, 6.7 miles from Los Angeles (Sixth and Main Street Station) on the Pasadena Short Line.

The Northeast Los Angeles Improvement Association asked and was granted permission to file a complaint in intervention in this case.

The following statement gives the one-way, round-trip and commutation fares between Los Angeles and stations located within the territory in question and shows the reductions which would be created by the establishment of a five-cent fare to Sierra Park.

Sierra Vista Line (Bairdstown).

Miles	Between LOS ANGELES and—	One-way		Round trip		10-ride		30-ride		52-ride	
		Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.
5.8	Harriman avenue	\$0 05	\$0 05								
5.9	Los Angeles Military Academy	10	05	\$0 20	\$0 10	\$0 65	\$0 50	\$2 00	\$1 50	\$3 05	\$2 60
6.1	Bairdstown	10	05	20	10	65	50	2 00	1 50	3 05	2 60
6.3	Lincoln School	10	05	20	10	70	50	2 10	1 50	3 20	2 60
6.5	Titus	10	05	20	10	70	50	2 10	1 50	3 20	2 60
6.6	Newton	10	05	20	10	70	50	2 10	1 50	3 20	2 60
6.7	Sierra Park	10	05	20	10	75	50	2 10	1 50	3 30	2 60
	Los Angeles city limits.										

In Case No. 911, complainant petitions for a five-cent fare, with transfer privileges, between Los Angeles (Hill Street Station) and Hollywood boulevard and Highland avenue (via Colegrove line), 8.4 miles; Highland avenue and Cahuenga avenue, 9.2 miles; points on Laurel Canyon Line to city limits 9.5 miles and to terminus Brush Canyon Line 8.2 miles. These points are all located in the Hollywood and Colegrove additions. The former was annexed to the city of Los Angeles February 7, 1910, and the latter October 27, 1909.

Following is a statement showing present fares, one-way, round-trip and commutation, and indicates reductions that would result in such fares should the five-cent limit be extended to include points in question:

Colegrove and Highland Avenue Line.

Miles	Between LOS ANGELES and—	One-way		Round trip		30-ride		46-ride	
		Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.
7.3	Seward street	\$0 05	\$0 05						
8.4	Hollywood boulevard	10	05	\$0 20	\$0 10	\$2 10	\$1 50	\$2 40	\$2 30
9.2	Cahuenga Pass	10	05	20	10	2 10	1 50	2 40	2 30
	Los Angeles city limits.								
9.6	Dusky Glen	15	15	25	25				

Brush Canyon Line.

8.2	Brush Canyon	\$0 10	\$0 05	\$0 20	\$0 10	\$2 10	\$1 50	\$2 40	\$2 30
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Laurel Canyon Line.

8.7	Gardner Junction	\$0 05	\$0 05																
9.5	Laurel Canyon	10	05	\$0 20	\$0 10	\$2 10	\$1 50	\$2 40	\$2 30										

Hollywood-Santa Monica Line (via Hollywood Boulevard).

8.7	Gardner Junction	\$0 05	\$0 05	\$0 10	\$0 10														
9.1	Stanley avenue	10	05	20	10	\$2 10	\$1 50	\$2 40	\$2 30										
9.1	Fountain avenue	10	05	20	10	2 10	1 50	2 40	2 30										

In Case No. 912, complaint is made against the one-way fare of ten cents charged by defendant between points located within the corporate limits of the city of Los Angeles, on what is known as the Glendale Line. Request is made that five-cent fare limit, with transfer privilege, be extended to include Richardson, 6.4 miles from Los Angeles (Sixth and Main Street Station). This point is located at the easterly boundary of what is known as East Hollywood Addition, annexed to the city of Los Angeles, February 28, 1910.

Following statement shows present fares, one-way, round-trip and commutation; also indicates reductions in such fares between points in question, as well as reductions in through fares to points beyond which would result from extension of the five-cent fare to Richardson.

Glendale Line.

Miles	Between LOS ANGELES and—	One-way		Round trip		10-ride		30-ride		52-ride	
		Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.	Pres.	Pro.
4.2	Semi Tropic Park	\$0 05	\$0 05								
4.6	Klondike Park	10	05	\$0 20	\$0 10	\$0 60	\$0 50	\$1 65	\$1 50		
5.0	Puente Alto	10	05	20	10	65	50	1 80	1 50	\$2 90	\$2 60
5.5	Ivanhoe	10	05	20	10	65	50	1 80	1 50	2 90	2 60
6.0	Glenhurst	10	05	20	10	80	50	2 20	1 50	3 25	2 60
6.2	Atwater	10	05	20	10	80	50	2 30	1 50	3 40	2 60
6.4	Richardson	10	05	20	10	80	50	2 30	1 50	3 40	2 60
	Los Angeles city limits.										
6.6	San Fernando Road	10	10	20	20						
7.3	Tropico	10	10	20	20						
7.5	Glendale, Ninth street	15	10	25	20						
7.8	Glendale, Lomita	15	10	25	20						
8.2	Glendale, Broadway	15	15	25	25						

46-Ride.

	Present.	Proposed
Glenhurst	\$2 55	\$2 30
Atwater	2 65	2 30
Richardson	2 65	2 30

The complainant and the intervener have, to a great extent, based their cases on the contention that defendant operates a street railroad in the handling of its local traffic, comes under the provisions of section 2, paragraph (g) of the Public Utilities Act and, therefore, under section 27 of the act should not be permitted to charge more than five

cents for one continuous ride in the same general direction between the points in controversy, all of which are located within the corporate limits of the city of Los Angeles. Seventeen exhibits were introduced by complainants, devoted in the main to an exposition of the mileage and the fares in the different territories, comparisons of these fares with other fares of the Pacific Electric and with those in effect between points on the Los Angeles Railway, travel checks of the various lines, operating statistics and the populations.

The Pacific Electric Railway Company was incorporated November 14, 1901, and on or about September 1, 1911, the following electric railway companies operating in Los Angeles, San Bernardino, Riverside and Orange counties were consolidated:

- Los Angeles Pacific Company.
- Los Angeles Interurban Railway Company.
- Los Angeles & Redondo Railway Company.
- San Bernardino Interurban Railway Company.
- Riverside & Arlington Railway Company.
- San Bernardino Valley Traction Company.
- Redlands Central Railway Company.
- Pacific Electric Railway Company.

On June 30, 1916, according to annual report filed with the commission, there was issued and outstanding \$74,000,000.00 capital stock (all common), and \$61,454,000.00 in bonds, including underlying bonds.

The company reports an investment in road and equipment as of June 30, 1916, of \$125,476,323.54: in this amount is included the par value of capital stock outstanding, \$74,000,000.00, all of which is owned by the Southern Pacific Company and carried on that company's books at a cost of \$4,068,306.26.

The gross income of the company for the past five years has averaged \$2,577,225.56 per year. The interest on funded debt for the same period has averaged \$2,550,586.61, leaving an average net income of \$26,638.95, from which average income there should be deducted rent for leased roads, interest on unfunded debt, amortization of discount on funded debt, reserves and miscellaneous adjustments averaging, for the five years under review, \$525,165.05 per year, less \$26,638.95, leaving a deficit in operation of an average of \$498,527.10 per year.

In this connection, the following table is pertinent as showing the financial results of operations for the five-year period ending June 30, 1916:

Pacific Electric Railway Company. Income and Profit and Loss Account.

	1912	1913	1914	1915	1916
Railway operating revenues.....	\$8,645,504 66	\$9,399,079 72	\$9,467,483 15	\$8,874,507 41	\$8,856,796 54
Railway operating expenses.....	5,750,287 56	6,366,518 80	6,623,535 57	6,026,802 46	5,994,611 41
Net revenue—railway operations.....	\$2,895,217 10	\$3,032,560 92	\$2,843,947 58	\$2,847,704 95	\$2,862,185 13
Taxes assignable to railway operations—					
On real and personal property.....	\$316,845 89	\$603,810 92	\$468,172 53	\$484,441 56	\$503,388 50
On capital stock.....					
On earnings.....	3,852 76	8,097 06	8,864 81	12,035 17	12,167 85
Miscellaneous.....					
Total taxes.....	\$320,698 65	\$611,907 98	\$477,036 84	\$496,476 73	\$515,556 35
Operating income.....	\$2,574,518 45	\$2,420,652 94	\$2,366,910 74	\$2,351,228 22	\$2,346,628 78
Nonoperating income—					
Miscellaneous rent income.....				\$20,616 91	\$16,648 00
Net income from miscellaneous physical property.....					1,656 25
Income from unfunded securities and accounts.....				1,992 47	17,623 10
Miscellaneous income.....	\$219,368 26	\$206,799 43	\$79,589 62	25,520 92	1,373 70
Total nonoperating income.....	\$219,368 26	\$206,799 43	\$79,589 62	\$48,130 30	\$37,801 05
Gross income.....	\$2,793,886 71	\$2,627,452 37	\$2,446,500 36	\$2,399,358 52	\$2,384,429 83
Deductions from gross income—					
Rent from leased roads.....	\$53,915 43	\$51,581 98	\$24,771 52	\$42,184 72	\$24,834 43
Miscellaneous rents.....					\$21 45
Interest on funded debt.....	2,681,607 04	2,325,353 47	2,623,234 52	2,785,000 40	2,834,107 62
Interest on unfunded debt.....	114,337 28	3,186 20	297,574 98	160,889 43	254,192 27
Amortization of discount on funded debt.....	40,356 52	76,459 39	68,169 72	83,044 82	85,311 79
Miscellaneous debits.....	7,354 14			11,160 38	6,566 60
Total deductions from gross income.....	\$2,297,570 41	\$2,462,531 04	\$2,913,720 74	\$3,082,879 75	\$3,205,694 16
Net income for year.....	\$496,316 30	\$164,871 33	\$532,779 38	\$316,479 23	\$178,734 33
Balance brought forward previous year (deficit).....	\$1,940,295 46	\$1,541,370 55	\$2,252,432 47	\$2,794,455 99	\$3,723,910 42
Miscellaneous additions.....	67,786 94	39,816 09	179,782 05	74,057 64	652,617 15
Miscellaneous deductions.....	146,748 33	822,082 67	111,704 19	180,889 17	429,821 73
Dividends.....					
Appropriations to reserves.....	18,500 00	128,666 67	142,881 00	139,101 67	116,066 66
Deficit at end of year.....	1,541,370 55	2,252,432 47	2,794,455 99	3,723,910 42	4,482,855 99

*Indicates deficit.

The following statistical data, showing comparison of year ending June 30, 1912, with that of the year ending June 30, 1916, is interesting, and discloses very little increase in business for the period:

	1912	1916
Total car mileage.....	27,320,758	31,387,250
Passenger revenue.....	\$6,677,289 08	\$6,705,708 59
Baggage, parlor car, special car, mail and express revenue.....	163,795 43	170,084 62
Milk revenue.....	41,569 63	4,939 77
Total passenger train revenue.....	\$6,882,654 14	\$6,880,742 98
Freight and switching revenue.....	1,112,683 61	1,656,067 71
Miscellaneous transportation revenue.....	51,532 01	1,849 69
Total freight revenue.....	1,164,215 62	1,657,917 40
Total revenue from transportation.....	\$8,046,869 76	\$8,538,660 38
Total operating revenue.....	\$8,645,504 66	\$8,856,796 54
Total operating expense.....	5,750,287 56	5,994,611 41
Operating revenue per car mile.....	\$0.31644	\$0.28218
Operating expenses per car mile.....	.21047	.19069
Mileage of road operated, all tracks.....	953.93	1,059.49

The population of the city of Los Angeles for the year 1910, as indicated by complainant's exhibit No. 17, was 319,198; in 1912, estimated on basis of registration, it was 461,558 and on the same basis for 1915 it was 558,011, but notwithstanding this great increase in population, defendant's passenger revenue shows practically no improvement, being \$6,677,289.08 in 1912 as compared with \$6,705,708.59 in 1916, a difference of but \$28,419.51.

For the transportation of milk the revenue in 1912 was \$41,569.63, in 1916 it was \$4,939.77, a net loss of \$36,629.86. The total of all traffic handled by passenger trains in 1912 was \$6,882,654.14 and in 1916 only \$6,880,742.98, or a net reduction at the end of the five-year period of \$1,911.16. The freight earnings, however, increased from \$1,112,683.61 in 1912 to \$1,656,067.71 in 1916, or \$543,384.10. During the same period taxes increased from \$320,698.65 in 1912 to \$515,556.35 in 1916, an excess of \$194,857.70. Interest on funded debt increased from \$2,081,607.04 in 1912 to \$2,834,107.62 in 1916. New bonds, amounting to \$15,066,000.00 were issued in conformity with this commission's Decisions Nos. 284, October 16, 1912, 559, April 8, 1913 and 1961, November 23, 1914, and included bonds for refunding, as well as for improvements, additions and betterments. It is also to be noted that the interest on unfunded debts increased from \$114,337.28 in 1912 to \$254,192.27 in 1916.

The defendant has never paid a dividend and shows, as of June 30, 1916, a deficit of \$4,432,855.99. In the year 1912 there was a net income profit of \$496,316.30; in 1913, a profit of \$199,871.33; in 1914,

a loss of \$467,220.38; in 1915, a loss of \$683,521.23 and in 1916 a loss of \$821,734.33.

A witness for defendant testified to the effect that the jitney busses alone reduced gross income by from \$30,000.00 to \$40,000.00 per month. The estimate does not appear excessive in view of other evidence and no doubt would be greatly increased if the amounts lost to defendant by privately owned automobiles and motor busses were included.

The constitution of the State of California and the Public Utilities Act provide that no common carrier shall charge any greater compensation as a through rate than the aggregate of the intermediate rates. Complainants are petitioning for a five-cent fare to the city limits and this reduction, if granted, would, because of the combination of local fares, make radical reductions in through fares. The present one-way fare to Santa Monica is 35 cents and the round trip 50 cents; these would be reduced to 15 cents and 30 cents respectively. Corresponding reductions would result to all other points, not only in the one-way and round-trip fares, but also in the commutation fares. The traffic manager of the company figured that the losses on the Western Division alone would total \$250,000.00 per annum. It is difficult to arrive at the exact financial effect of a change in passenger rates on a system operated as is this company, for the reason travelers are not compelled to purchase tickets and the segregations shown by conductors' cash registers do not furnish the necessary information. The reports rendered by ticket offices and the checkup of cars, for certain periods, combined with the cash register figures, however, demonstrate that the company's estimate of the losses to beach resorts on the Western Division is approximately correct and that the losses for the entire system would probably approach \$300,000.00. This amount, added to the loss of \$821,734.33 sustained in 1916, would create an annual deficit of over \$1,000,000.00, unless the reductions in fares could be relied upon to increase the traffic and correspondingly increase earnings without materially augmenting expenses, a conclusion which is unwarranted by the evidence. The situation would be much worse had not the freight earnings increased \$543,384.40 in 1916 over those earned in 1912.

As heretofore stated, the Southern Pacific Company owns all of defendant's stock and is also the owner of a great amount of its bonds. It, therefore, seems apparent that if the defendant did not have this substantial financial backing it probably would have, before this time, been confronted with the problem of the adjustment of its financial affairs.

The present five cent fare limit on the line to Palms (Case 891), is Vineyard, six miles from Fourth and Hill Street Station; there are practically no residences between Vineyard and Palms and stops are few and far between. It would appear that the so-called strictly street car territory ceases at Vineyard and the service rendered beyond that point is suburban, or interurban, in its nature. Further, the service to Palms and all points west of Vineyard is performed exclusively by through cars to and from the beach points. The fact that the territory west of Vineyard to and including the westerly limits of Palms (Home Junction) has been annexed to the city of Los Angeles in no way changes the character of the service rendered by the defendant.

The following statement sets forth the rates per ride obtainable between Los Angeles (Fourth and Hill Street Station) and Palms by purchasers of commutation books:

Miles	Between LOS ANGELES and -	One- way fare	30-ride family ticket		60-ride individual ticket	
			Fare	Rate per ride, cents	Fare	Rate per ride, cents
10.3	Palms, First street.....	\$0 20	\$3 50	11.7	\$5 50	9.2
*11.7 †13.7	Home Junction	25	4 00	13.3	6 00	10.0

*Short line mileage.

†Through line from Sixth and Main streets.

In Case 892 (Bairdstown Addition) Mr. Arzner, a witness for complainant, said (Transcript 2, page 213):

"The service given in the morning from approximately 5.40 to 9.40 a.m. is purely local service from Sierra Vista, making all local stops in and out. From that until 3.50 p.m. I believe all of this local business is handled by Alhambra-San Gabriel cars, which is an interurban, or suburban line, making the stops between Sixth and Main streets and Sierra Vista."

And at page 240 of transcript:

"Local service again from approximately 4.00 p.m. to 7.00 or 7.30 p.m., after which time the service is again performed by the Alhambra-San Gabriel cars—up to midnight last car."

Mr. Pontius, traffic manager of the defendant, testified as follows (Vol. 4, page 600 of transcript):

"MR. KARR: Just state why the Alhambra car was put into the local service during certain hours of the day.

MR. PONTIUS: Because we found in operating cars to Sierra Vista, that is, our Sierra Vista line, the cars—that the travel was so light, and the conditions of the Pacific Electric were becoming so bad, our earnings, that we had to do something to offset the tremendous losses we were having in operating the lines, and we

cut off this Sierra Vista service because we could not afford to operate it. Now, if the Sierra Vista service had paid—if there was enough business to warrant operating the Sierra Vista line, we would have preferred to continue that service in preference to compelling those passengers, or compelling the company, using the Alhambra cars for this local service and we would prefer giving through service to Alhambra, but the earnings were so light that we had to give it up.”

From this testimony it would appear that there is not sufficient local travel between Sierra Vista, Bairdstown, etc., and Los Angeles to pay for the operation of local service at all hours throughout the day; therefore, defendant arranged to give this community individual local service during rush hours morning and evening and to take care of the lighter travel at other hours during the day on the Alhambra-San Gabriel through suburban cars.

It was shown that this service is operated over the public streets of Los Angeles from Sixth and Main streets to Aliso and Anderson streets, a distance of 1.76 miles—that at Anderson street tracks pass onto private rights of way and run over private rights of way the entire distance through the Bairdstown-Sierra Vista community, with the exception of public street crossings. The distance from Anderson street to Sierra Vista is 4.97 miles.

As to the population tributary defendant, in its answer to complaint (which was not controverted) said, in substance, that from Sixth and Main streets to Aliso and Anderson streets, the line passes through the business and industrial sections of Los Angeles, both of which are thickly populated. From Anderson street to Covina Junction, a distance of 1.35 miles, there is practically no business or residences tributary to the line; the same is true of territory from Covina Junction to Rose Hill, a distance of 1.99 miles. At Rose Hill district there are approximately 600 inhabitants; from Rose Hill to Bairdstown, a distance of 1.2 miles, very few, if any, inhabitants; from Bairdstown to Sierra Park, .62 miles, there are approximately 1,200 inhabitants in the immediate locality.

From this analysis of the local conditions, it would appear that the service rendered Bairdstown, Sierra Park and Sierra Vista must be considered interurban or suburban between Los Angeles on the one hand and the several smaller communities of the outlying districts on the other, or at least were prior to annexation, rather than a street car service. This position is further substantiated by the fact that except during the rush hours of the day the service rendered these communities is performed entirely by the through Alhambra-San Gabriel cars.

The following statement gives the fares and rate per ride obtainable by the purchase of commutation tickets:

Miles from Sixth and Main streets	Between LOS ANGELES and—	One-way fare	30-ride family ticket		52-ride individual ticket	
			Fare	Rate per ride, cents	Fare	Rate per ride, cents
5.8	Harriman avenue	\$0 05				
5.9	Los Angeles Military Academy	10	\$2 00	6.6	\$3 05	5.9
6.1	Bairdstown	10	2 00	6.6	3 05	5.9
6.3	Lincoln School	10	2 10	7.0	3 20	6.2
6.5	Titus	10	2 10	7.0	3 20	6.2
6.6	Newton	10	2 10	7.0	3 20	6.2
6.7	Sierra Park	10	2 10	7.0	3 30	6.4

The five cent fare limit between Los Angeles and points in the Hollywood-Colegrove districts, (Case No. 911) now terminates at Seward street, 7.31 miles; at Gardner Junction, 8.70 miles and at Brush Canyon Junction, 6.93 miles from Los Angeles (Fourth and Hill streets). Complainants petition for the extension of this fare from Seward street to Cahuenga Pass, 9.16 miles; Gardner Junction to Laurel Canyon, 9.51 miles and Brush Canyon Junction to the end of the Brush Canyon line, 8.16 miles from Los Angeles (Fourth and Hill streets).

Defendant denies that the present fares are excessive or unreasonable and refers to the commutation rates in effect, which are as follows:

Miles from Fourth and Hill streets	Between LOS ANGELES and—	One-way fare	30-ride family ticket		60-ride individual ticket	
			Fare	Rate per ride	Fare	Rate per ride
8.2	Brush Canyon	\$0 10	\$2 10	\$0 07	\$3 00	\$0 05
9.2	Cahuenga Pass	10	2 10	07	3 00	05
9.5	Laurel Canyon	10	2 10	07	3 00	05
9.1	Fountain avenue	10	2 10	07	3 00	05

It will be noted the 30-ride ticket gives a rate of seven cents per trip and the 60-ride a rate of five cents per trip.

It is further contended that the present fares to this district were established under compulsion of a court decision, which decision was later reversed, although the fares were not restored by the carrier; that the fares were too low when established in 1910 and do not now produce a remunerative revenue. Complainants have failed to introduce substantial evidence to sustain their petitions for a reduction in the fares between Cahuenga Pass, Laurel Canyon, Brush Canyon and Los Angeles. It certainly would not be seriously urged that the five cent fare should be maintained to the northerly limits of the city of Los Angeles, a distance of about one mile beyond Brush Canyon Junction through very sparsely settled territory; in other words, the five cent fare must reasonably break within the city limits, and the evidence

introduced fully justifies the existing fare between Cahuenga Pass, Laurel Canyon, Brush Canyon and Los Angeles.

Local car service operates over public streets between Southern Pacific depot and Semi Tropic Park, 5.07 miles, at all hours of the day. This is the terminus of the Edendale line (Case 912), and is the present five cent fare limit. The cars used in this five cent fare service are much smaller, lighter and of an entirely different type from those operated over the same tracks from Sixth and Main streets in the through suburban service to Tropic, Glendale and Burbank. The territory to Semi Tropic Park is densely populated and stops are made at all street crossings by the local cars for the accommodation of passengers.

The through Glendale and Burbank interurban cars stop only at certain streets to receive and discharge through traffic. Passengers going to a point within the five cent limit are not permitted to board the Glendale or Burbank cars, but are required to use the Edendale cars.

There are six stops between Semi Tropic Park and the northern city limits of Los Angeles, within a few feet of Richardson Station, the point in the Edendale district to which a five cent fare is demanded. The bulk of the travel on the Glendale and Burbank through cars is destined to points beyond Richardson; the travel to and from stations Klondike Park to Richardson, inclusive, is very light by comparison and, from the following table, it will be noted that a low rate per ride is obtainable to these points by the purchase of 30-ride family or 52-ride individual commutation tickets. These stops are:

Miles from Sixth and Main streets	Between LOS ANGELES and—	One-way fare	30-ride family ticket		52-ride individual ticket	
			Fare	Rate per ride, cents	Fare	Rate per ride, cents
*5.07	Semi Tropic Park.....	\$0 05				
4.6	.4 Klondike Park.....	10	\$1 65	5.5		
5.0	.4 Puento Alto.....	10	1 80	6.0	\$2 90	5.6
5.5	.5 Ivanhoe.....	10	1 80	6.0	2 90	5.6
6.0	.5 Glenhurst.....	10	2 20	7.3	3 25	6.3
6.2	.2 Atwater.....	10	2 30	7.7	3 40	6.5
6.4	.2 Richardson.....	10	2 30	7.7	3 40	6.5
	Los Angeles city limits.					
6.6	.2 San Fernando Road.....	10				

*Figured from Southern Pacific depot, the Los Angeles terminus of the Edendale local line.

In view of the facts presented, it would appear that the local service to Semi Tropic Park and that rendered to Glendale and Burbank

through the Edendale district over the same tracks are entirely different and, in so far as a strictly street car service is concerned, such service, in this particular case, is rendered only by the cars terminating at Semi Tropic Park, and the service performed by the Glendale and Burbank cars is suburban, or interurban, in its nature.

The situation in this case is no different from that set forth in the Bairdstown and Palms cases and the mere fact that the limits of the city of Los Angeles have been extended to include Richardson and intermediate stations would not operate to change the conditions or the class of service given to the Edendale district.

Complainant, intervener and defendant discuss at great length in their briefs the question as to whether the defendant is a "street railway" or a "railroad" within the meaning of these terms as employed in the Public Utilities Act.

Section 2, paragraph (g) of the Act provides:

"The term 'street railroad,' when used in this act, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city and county, or city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property; but the term 'street railroad' when used in this act, shall not include a railway constituting or used as a part of a commercial or interurban railway."

Paragraph (i) of the same section reads as follows:

"The term 'railroad,' when used in this act, includes every commercial, interurban and other railway other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property."

I deem it unnecessary to engage in a discussion of or to pass upon the question whether defendant falls within the definition of "street railroad" or "railroad" as those terms are employed in the Public Utilities Act.

Granting that the defendant is a "street railroad" within the meaning of that act, the facts as disclosed by the evidence, and as herein set forth, convince me that a further reduction of the fares of defendant, as requested by complainant, is unwarranted.

There is no testimony showing the number of jitneys in operation in the city of Los Angeles to the territory to which complainants seek reductions, but there is testimony that the jitney competition is very keen, and that private automobiles have also made great inroads on the earnings of the defendant. The decrease in earnings by reason of private automobiles was felt as early as 1913, and the competition of the auto bus lines and jitneys became very acute in the early part of 1915 and has since continued; to this character of competition is due, unquestionably, the severe losses of defendant.

It must be obvious that this defendant can not, when showing such great deficits, be expected to give improvements in service which might otherwise be properly required, or to reduce fares still lower, thereby but increasing its already severe losses. The record contains testimony indicating that the present fares do not give defendant sufficient revenue to meet its current expenses.

While it would, no doubt, be to the advantage of certain residents and property owners of the districts affected by these proceedings to secure reductions in the present fares, the public in general, as well as the carrier, have an interest in the margin of safety due to a public utility and, therefore, this commission must and will take into consideration not only these complainants, but the rights of defendant and all other interests served by this defendant, whose legitimate investments should not be injured.

The mere fact that territory is annexed to a city does not automatically operate to reduce existing fares which are higher than five cents to five cents if the higher fares are justifiable. This rule has been previously declared by this commission in *Froelich vs. Los Angeles Railway Corporation*, Vol. 3, Opinions and Orders of the Railroad Commission of California, 30-31, wherein Commissioner Edgerton said:

"The boundaries of the city of Los Angeles are not at all regular in shape, consequently a line in one direction might reach a considerable distance beyond the city limits and at the same time the terminus thereof be a shorter distance from the center of population in Los Angeles than would a line operating in the other direction wholly within the city. * * *

"Because a city annexes adjoining territory making its boundary lines extremely irregular it does not follow that a street railway system should be required to always extend its five-cent fare zone to conform to the new boundary lines."

Complainants have not proven the rates to be discriminatory, neither has it been shown that the districts in question furnish a traffic of sufficient volume to justify a street car fare of five cents, and the commission finds that the charges and fares to the points and places designated in the complaints herein, which were lawfully in effect November 3, 1914, are justified.

This commission can only prescribe just and reasonable rates and, after careful deliberation upon all the elements in these cases and the effect upon the revenue which would result from the reductions demanded by complainants, I am of the opinion that the facts do not sustain the complaints and recommend that the cases be dismissed.

I therefore submit the following form of order:

ORDER.

The city of Los Angeles having filed complaints against the Pacific Electric Railway Company and a hearing having been held and being fully apprised in the premises and being of the opinion that the facts do not sustain the complaints,

It is hereby ordered that the said complaints be and the same are hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of January, 1917.

Decision No. 4063, grade crossing; not printed. See end of volume.

DECISION No. 4064.

IN THE MATTER OF THE APPLICATION OF MARTINEZ LAND COMPANY
FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY
REQUIRE IT TO SERVE WATER ADJACENT TO MARTINEZ, AND
FOR AN ORDER FIXING RATES FOR WATER SERVICE.

Application No. 2699.

Decided January 29, 1917.

Applicant granted a certificate of public convenience and necessity permitting the construction and operation of a water distributing system in a certain tract of land near Martinez, Contra Costa County. Schedule of rates also established, such rates not to provide a return upon the investment, considering that the system was constructed primarily for the purpose of promoting real estate sales.

J. E. Rogers and A. F. Bray, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing in this proceeding was held at Martinez on March 15, 1916, being conducted by Myron Westover, examiner.

Martinez Land Company was incorporated in September, 1915, for the general purpose of subdividing and selling land in and adjacent to Martinez, Contra Costa County. As an incident to its business it installed a water plant which since October, 1915, has been supplying water upon its tracts of some 126 acres, in unincorporated territory

adjacent to Martinez, about one-third thereof being piped. Its system was constructed because its subdivisions lie at such an elevation that the territory could not be served at the time by the Port Costa Water Company, which serves water in Martinez, and serves one consumer in that portion of the subdivisions lying east of Veale avenue. Applicant's manager testified that it could and would serve as needed in that portion of the tracts lying west of Veale avenue and south of Pacheco boulevard and Bush avenue, which form their northerly boundary, and that the portion east of Veale avenue could be served by Port Costa Water Company.

Applicant has not applied for nor been granted authority to serve water in the territory described. At the suggestion of the commission the application was so amended at the hearing that it would include a prayer for a certificate that public convenience and necessity require the applicant to maintain its water system, and serve the territory described above. Port Costa Water Company has since indicated in writing that it has no objection to such service by applicant, and does not desire to serve the said territory to the west of Veale avenue. No other water utility serves this vicinity.

Applicant's pipes are laid in private streets in unincorporated territory. It offered to dedicate the streets in its several subdivisions, but its offers of dedication were severally, officially and formally rejected. It therefore does not need any franchise for such service.

Applicant's water system consists of a 12-inch well 300 feet deep, with tanks, tank house, pump, motor and 1,230 feet 4-inch casing, 8,500 feet 2-inch and 2,050 feet of 1½-inch standard screw dipped pipe with 36¾-inch service connections. It presented no engineering testimony, but its manager testified that the cost of the plant, including three lots used in connection with it, estimated at \$1,800.00, their selling price, was \$6,088.18.

Mr. C. H. Loveland, one of the commission's assistant engineers, called by the commission, presented an estimate of the cost new of the system, totaling the sum of \$4,160.00, excluding real estate. Only a small portion of the three lots is used, the well and tanks being placed on the rear of two lots and the third used only for a right of way for mains.

Applicant has no present income from its water service. It has not filed any schedule of rates, and has not heretofore sought to collect for water served. It now asks authority to collect for water served since October, 1915, at rates requested by it. Section 17 (b) of the Public Utilities Act provides that a public utility may collect only those rates specified in its schedules on file and in effect at the time of service. The right to charge for the service could have been heretofore procured

by filing the schedule with the commission. Under these circumstances the right to collect for past service can not be given.

As to rates for the future, applicant very properly does not ask any return on its investment, considering that as part of the cost of development of its properties. Estimates have been made of the income which applicant will need to meet the cost of electric energy, labor and miscellaneous expenses, and to provide an annual sinking fund sufficient to replace its system as needed.

The rates provided in the order it is estimated will produce sufficient revenue for the purpose. The flat rates provided are those requested except that a lower minimum is provided for houses of less than six rooms.

ORDER.

Martinez Land Company, a corporation, having applied to the Railroad Commission for a certificate that public convenience and necessity require it to serve water in the territory described herein and for an order establishing water rates for such service, and a public hearing having been held thereon,

The Railroad Commission of the State of California does hereby find that public convenience and necessity require that Martinez Land Company serve water in that portion of its tracts near Martinez, Contra Costa County, lying south of Pacheco boulevard, west of Veale avenue, east and southeast of Bush avenue and upon all lots facing on both sides of Ford avenue, Shell avenue, Magnolia avenue and West Shell avenue.

It is hereby further ordered by the Railroad Commission of the State of California that said Martinez Land Company within thirty (30) days from date file with the commission and put into effect the rates set forth below, which are hereby found to be just and reasonable rates, to wit:

For residence of not more than 4 rooms, toilet and bath.....	\$1 00 per month
Each additional room.....	25 per month
Stores	3 00 per month
Lodging houses	3 00 per month
Hotels	5 00 per month
All other water sold at meter rates.	

Meter Rates.

400 cubic feet or less.....	\$1 00 per month
400-1,000 cubic feet.....	20 per 100 cu. ft.
Over 1,000 cubic feet.....	15 per 100 cu. ft.

Dated at San Francisco, California, this 29th day of January, 1917.

DECISION No. 4065.

C. H. YEAGLE, SECRETARY, CUTLER CHAMBER OF COMMERCE,
vs.
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 810.

Decided January 30, 1917.

ORDER OF DISMISSAL.

Complainant in the above entitled matter, having made written request that the complaint in said proceeding be dismissed,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 30th day of January, 1917.

DECISION No. 4066.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY WILL REQUIRE THE EXERCISE BY IT OF CERTAIN RIGHTS AND PRIVILEGES UNDER A PROPOSED FRANCHISE FROM THE COUNTY OF TRINITY.

Application No. 2646.

Decided January 30, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the county of Trinity permitting the construction of an electrical transmission line from Junction City to Weaverville, and the construction and operation of distributing lines in territory adjacent thereto.

Chickering & Gregory, by *Allen Chickering*, for Applicant.

Allan P. Matthew, for Northern California Power Company, Consolidated.

Morrison, Dunne & Brobeck, by *Herman H. Phleger*, for California-Oregon Power Company.

W. A. Goetze, for Weaverville Electric Company.

By THE COMMISSION.

OPINION.

This is an application by Western States Gas and Electric Company, a corporation, for an order declaring that public convenience and necessity will require the construction, maintenance and operation of lines for electric service in that portion of Trinity County lying west of a north and south line drawn through the center of the unincor-

porated town of Weaverville, and for an order preliminary to the issue of a certificate that public convenience and necessity will require the exercise by applicant of rights and privileges under a certain franchise for which application has been made to the board of supervisors of Trinity County.

A public hearing in this proceeding was held at San Francisco on January 11, 1917, the evidence being taken by Examiner Bancroft.

It appears that applicant is a corporation engaged in the business of generating and selling electricity in Humboldt and Trinity counties, as well as in the manufacture, production and sale of gas and electricity in other portions of California; that applicant generates electric energy for consumption in the two counties above mentioned by means of a hydroelectric plant near Junction City, Trinity County, and by means of steam plants situated in Eureka, Humboldt County; that during about three months of each year, applicant's supply of hydroelectric energy is insufficient for all of its needs in these two counties, and that, accordingly, applicant has entered into a contract with Northern California Power Company, Consolidated, providing for the sale by the said last named company to applicant of electric energy, and that for the purpose of connecting the line of applicant with the lines of said Northern California Power Company, Consolidated, it is necessary for applicant to construct a high tension line from its power house near Junction City to the lines of Northern California Power Company, Consolidated, at or near the town of Weaverville, Trinity County; that there are various small communities situated in Trinity County west of Weaverville, none of which is now supplied with electric service from any source, and that it will be possible by means of the construction of said high tension line for applicant to serve with electric energy the towns of Junction City, Douglas City, North Fork, and Hayfork; that outside of the above mentioned towns there is also territory which can be served by applicant and which applicant proposes to serve, in which there are possibilities for dredging and agricultural development, and which would be benefited by the introduction of electricity.

It further appears that it is the intention of applicant to develop its business by the extension of its lines in the district above described, so far as the same can reasonably be done, and to extend its lines as far as the reasonable possibility of consumption of electric energy in said district will permit.

It further appears from the testimony offered by applicant that it does not intend or desire to serve the town of Weaverville, which is at present served by Weaverville Electric Company, or any portion of Trinity County lying east of a north and south line drawn through the center of the town of Weaverville. Upon this understanding no protest was made against the granting of the application.

Prior to the filing of the above entitled application, Western States Gas and Electric Company had applied to the county of Trinity for a franchise, and after the filing of this application, but before the hearing, namely, on January 4, 1917, an ordinance was passed by the unanimous vote of the board of supervisors of said county, entitled "An ordinance granting the right and privilege of erecting and maintaining poles and stringing and maintaining wires and other appliances and appurtenances thereon, for the transmission of electricity and electrical current over, along and upon the roads, trails and highways of and in said county of Trinity, State of California, and upon, along and over the streets, alleys and avenues of the several unincorporated towns and villages in said county of Trinity."

This ordinance or franchise gives applicant the rights and privileges designated in its title for a term of fifty years from the date of its passage. It contains certain restrictions, among which may be mentioned those relating to the size of the poles, the proper construction of its lines and a clearance of twenty feet above any roads, highways, streets, alleys, or avenues which the lines may cross. It also provides that the franchise granted shall not be exclusive, but that any other similar grants and privileges shall not interfere with the reasonable use of the rights and privileges therein granted to applicant, and it provides that work shall be commenced by said applicant under said franchise within four months from the granting thereof, and it shall be completed within not more than three years thereafter under penalty of forfeiture for failure so to begin or so to complete said work.

Under all the circumstances, we are of the opinion that this application should be granted, subject to the conditions set forth in the following order:

ORDER.

Western States Gas and Electric Company, a corporation, having filed the above entitled application, and a public hearing having been held upon the same, and the matter being now ready for decision, the Railroad Commission hereby declares that present and future public convenience and necessity require the extension in Trinity County of the transmission and distribution lines of Western States Gas and Electric Company from its power house near Junction City to the lines of the Northern California Power Company, Consolidated, near Weaverville, and the construction of distribution lines to or in the neighborhood of Junction City, Douglas City, North Fork, Hayfork and territory adjacent thereto in Trinity County, and the furnishing by it of electric energy to all that portion of Trinity County lying west of a north and south line drawn through the center of Weaverville which it will be practicable for it to serve, except the town of Weaverville, and the

exercise within such territory of the rights and privileges conferred by the ordinance of the board of supervisors of Trinity County adopted on January 4, 1917, which ordinance is more particularly described in the opinion which precedes this order, provided that Western States Gas and Electric Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors agreeing for itself, its successors and assigns, that they will never claim before the Railroad Commission or any other public authority any value for the rights and privileges conferred by said ordinance or franchise in excess of the actual cost thereof to applicant, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation in form satisfactory to the Railroad Commission has been filed herein.

Dated at San Francisco, California, this 30th day of January, 1917.

DECISION No. 4067.

IN THE MATTER OF THE APPLICATION OF FONTANA POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR PERMISSION TO ISSUE STOCK AND BONDS, AND TO MORTGAGE PROPERTY TO SECURE SAID BONDS, AND FOR PERMISSION TO ENTER INTO A CERTAIN INDENTURE OF LEASE.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY TO ENTER INTO A CERTAIN INDENTURE OF LEASE AND TO ENTER INTO A CERTAIN CONTRACT FOR THE SALE OF POWER.

IN THE MATTER OF THE APPLICATION OF RIALTO DOMESTIC WATER COMPANY TO ENTER INTO A CERTAIN CONTRACT FOR THE PURCHASE OF POWER.

Application No. 2245.

Decided January 30, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this commission in Decision No. 3773, dated October 10, 1916, authorized Fontana Power Company to issue \$350,000.00 face value of its first mortgage 6 per cent bonds at not less than 90 per cent of their face value, plus accrued interest, upon the condition that said bonds should be sold only after the commission had approved the mortgage and trust deed under which such bonds are to be issued; and

Whereas Fontana Power Company has now filed with this commission a mortgage and trust deed to Los Angeles Trust and Savings Bank

providing for a total authorized issue of \$350,000.00 face value of first mortgage 6 per cent serial gold bonds to be dated December 1, 1916, and to mature at various dates from December 1, 1921, to December 1, 1946, said bonds to be of the denomination of \$1,000.00, to be secured by a mortgage upon all property now owned or hereafter acquired, and to be callable at any interest date at 104 and accrued interest, the proceeds to be used in the construction of a power plant according to plans deposited with the trustee, and the holders of a majority of the outstanding bonds to control proceedings in case of default;

And it appearing to this commission that said mortgage and trust deed is in proper form and should be approved.

It is hereby ordered that Fontana Power Company be and it is hereby authorized to execute a mortgage and trust deed upon its properties substantially in the form of a mortgage and trust deed filed by Fontana Power Company in Application No. 2245, marked Exhibit "J."

The approval herein given of said mortgage is for the purpose of this proceeding only, and is an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

Dated at San Francisco, California, this 30th day of January, 1917.

DECISION NO. 4068.

J. L. MUSICK ET AL.

vs.

THE CRESCENT CITY WHARF AND DOCK COMPANY.

Case No. 706.

Decided January 31, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that complainants do not desire to proceed in this matter,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 31st day of January, 1917.

DECISION No. 4069.

IN THE MATTER OF THE APPLICATION OF EXCHEQUER MINING
AND POWER COMPANY FOR PERMISSION TO SELL OR DISPOSE
OF ITS PROPERTY AND WATER RIGHTS.

Application No. 2736.

Decided January 31, 1917.

BY THE COMMISSION.

ORDER.

Whereas it appears that this is an application for an order authorizing the sale by petitioner of its property and water rights and that no purchaser has as yet been found for the property and that it is uncertain when such purchaser will be found, and good cause appearing.

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 31st day of January, 1917.

DECISION No. 4070.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD
COMMISSION OF THE STATE OF CALIFORNIA GRANTING THAT
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES
CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT
BY THE BOARD OF TRUSTEES OF THE CITY OF FRESNO BY
ORDINANCE No. 780 ON THE SEVENTEENTH DAY OF JANUARY,
1916.

Application No. 2716.

Decided January 31, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of Fresno permitting the operation of a telephone system in said city, provided a stipulation is filed to the effect that no value shall ever be claimed for such franchise in excess of the actual original cost thereof.

James T. Shaw, for Applicant.

GORDON, *Commissioner*.

OPINION.

This is an application by The Pacific Telephone and Telegraph Company asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by

petitioner of the rights and privileges granted to it by Ordinance No. 780 of the city of Fresno, adopted on January 17, 1916.

A public hearing herein was held in Fresno on January 27, 1917. No one appeared in opposition to the granting of the petition.

On January 4, 1915, the petitioner filed with the city of Fresno a petition, asking that its board of trustees advertise the fact of its application, together with the statement that it is proposed to grant the same according to law.

Ordinance No. 780 of the city of Fresno, adopted on January 17, 1916, grants to the petitioner, its successors and assigns, for a period of 25 years from and after the date of the passage of the ordinance, the right to do a general telephone and telegraph business within the city of Fresno and, in general, to construct, operate and maintain a telephone and telegraph system on and along the public streets and other public places of the city of Fresno.

Ordinance No. 780 contains provisions with reference to the construction and removal of overhead and underground construction on and in the streets of the city of Fresno, changes in construction due to street improvements, the placing of wires underground, the payment to the city of Fresno of a percentage of the gross revenue derived by the grantee, its successors and assigns, from operation under the franchise, as provided by the Broughton Act, the supply to the city of Fresno for public business of twenty free telephones, exclusive of telephones at the time of the passage of the ordinance used for police and fire alarm purposes, the use of overhead and underground construction for the fire alarm and police telephone and telegraph systems of the city of Fresno to the extent indicated, and the indemnification by the grantee of the city of Fresno from claims, damages and losses.

The petitioner and its predecessors operated a telephone and telegraph system in the city of Fresno under a 25-year franchise, which expired on the third day of November, 1915. The board of trustees of the city of Fresno directed the Pacific Company to apply for a new franchise and Ordinance No. 780 is the result of such application.

The Pacific Company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing the exercise by it of the rights granted by Ordinance No. 780, the failure to make such application to the Railroad Commission being due to the belief of the officials of the petitioner that such application was not necessary.

We recommend that the petition be granted, subject to the conditions contained in the order herein, and submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having filed its petition herein asking that the Railroad Commission make its order as

specified in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully advised;

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 780 of the city of Fresno, adopted on January 17, 1916, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it or they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 780 of the city of Fresno in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in the said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of January, 1917.

DECISION No. 4071.

IN THE MATTER OF THE APPLICATION OF ALTURAS ELECTRIC POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 1970.

Decided January 31, 1917.

Supplemental order approving proposed mortgage of applicant to be executed for the purpose of securing an issue of \$100,000.00 face value of bonds.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this commission in Decision No. 3136, dated October 10, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 274), authorized Alturas Electric Power Company to execute a mortgage or deed of trust upon its properties to secure a bonded indebtedness of \$100,000.00 face value of first mortgage 30-year 6 per cent bonds upon the condition that applicant should not execute any mortgage or deed of trust until it should have obtained a supplemental order from this commission approving the same; and

Whereas Alturas Electric Power Company has now filed with this commission a mortgage or deed of trust to Anglo-California Trust Company, providing for a total authorized issue of \$100,000.00 face value of first mortgage 6 per cent sinking fund 30-year gold bonds to be dated January 1, 1917, and to mature January 1, 1947, said bonds to be of the denomination of \$1,000.00 each, to be secured by a mortgage upon all property now owned or hereafter acquired, and to be callable at any interest date after January 1, 1919, at 105 and accrued interest; and

Whereas said mortgage further provides for a sinking fund of one per cent of the face value of the bonds outstanding on the first day of January in each of the years 1920 to 1924, inclusive, and of $1\frac{1}{2}$ per cent of the face value of the bonds outstanding on the first day of January in each of the years 1925 to 1929, inclusive, and of 2 per cent of the face value of the bonds outstanding on the first day of January in each of the years thereafter until maturity of said bonds; and

Whereas said trust deed further provides that in case of default in interest or in principal continuing for a period of six months, or in case of default in the due observance or performance of any other covenant continuing for ninety days after written notice to the company from the trustee or any bondholder, the holders of a majority in interest of the outstanding bonds may elect that the entire principal sum and interest accrued thereon shall become immediately due and payable, subject, however, to the right of a majority in interest of the bondholders to annul such election and destroy its effect at any time before the sale of the property;

And it appearing to this commission that said mortgage is in proper form and should be approved,

It is hereby ordered that Alturas Electric Power Company be and it is hereby authorized to execute a mortgage or deed of trust upon its properties substantially in the form of a mortgage or deed of trust filed in this proceeding on January 26, 1917, and marked Exhibit "E."

The approval herein given of said mortgage is for the purpose of this proceeding only and is an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

Dated at San Francisco, California, this 31st day of January, 1917.

DECISION No. 4072.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES
GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE BONDS.

Application No. 2542.

Decided January 31, 1917.

Applicant was heretofore authorized to issue \$285,000.00 face value first mortgage bonds, such bonds to be issued only as provided by supplemental orders. It is now authorized to issue \$61,000.00 face value thereof, to be sold at not less than 92½, proceeds to be used to reimburse applicant's treasury covering capital expenditures made during the period November 1st to 30th, 1916.

Leroy M. Edwards, for Applicant.

LOVELAND, *Commissioner.*

THIRD SUPPLEMENTAL ORDER.

Whereas by Decision No. 3748, dated October 2, 1916, this Commission authorized Southern Counties Gas Company of California to issue \$370,000.00 face value of its first mortgage 5½ per cent 20-year bonds; and

Whereas said Decision No. 3748 provided that \$85,000.00 of said bonds might be issued forthwith and that the balance of \$285,000.00 of said bonds should be issued only upon supplemental orders from this commission for the purpose of providing funds to pay 80 per cent of the cost of applicant's proposed improvements from August 31, 1916, to July 31, 1917; and

Whereas by Decision No. 3832, dated November 2, 1916, applicant was authorized to issue \$37,000.00 face value of said \$285,000.00 to pay for 80 per cent of the expenditures for improvements and acquisition of property as set forth in said Decision No. 3832; and

Whereas by Decision No. 3941, dated December 20, 1916, applicant was authorized to issue \$36,000.00 face value of said \$285,000.00 to pay for 80 per cent of the expenditures for improvements and acquisition of property as set forth in said Decision No. 3941; and

Whereas applicant has now filed with this commission a statement of capital expenditures for the month of November, 1916, of \$76,296.09, against which applicant now desires to issue \$61,000.00 face value of its first mortgage 5½ per cent 20-year bonds; and

Whereas applicant has satisfied the earning requirements of its deed of trust in that its net earnings for twelve months ending November 30, 1916, exceed one and one-half times the annual interest on bonds outstanding, plus the interest on the bonds proposed to be issued;

And it appearing that the bonds which applicant proposes to issue are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to issue \$61,000.00 face value of its first mortgage 5½ per cent 20-year bonds, said bonds being a part of the aforesaid \$285,000.00 face value of bonds to which reference is made in Decision No. 3748, dated October 2, 1916.

The authority herein granted to issue said bonds is granted upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall net applicant not less than 92½ per cent of their face value plus accrued interest thereon.

2. The proceeds derived from the sale of said \$61,000.00 face value of bonds shall be used to reimburse applicant for expenditures for additions and betterments, the moneys to be applied upon applicant's notes and accounts payable as listed with this commission in a statement filed in this proceeding on January 17, 1917.

3. Southern Counties Gas Company of California shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

5. The bonds herein authorized to be issued shall be issued on or before June 30, 1917.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California in the above entitled proceeding.

Dated at San Francisco, California, this 31st day of January, 1917.

DECISION No. 4073.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE No. 81 OF THE CITY OF LOS BANOS.

Application No. 2707.

Decided January 31, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the city of Los Banos authorizing the maintenance and operation of a telephone plant in said city, provided that a stipulation be filed to the effect that no value shall ever be claimed for such franchise in excess of the original cost thereof.

Pillsbury, Madison & Sutro, and James T. Shaw, for Applicant

BY THE COMMISSION.

OPINION.

This is an application by The Pacific Telephone and Telegraph Company requesting the Railroad Commission to make its order declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by Ordinance No. 81 of the city of Los Banos, Merced County, adopted July 7, 1915.

A public hearing was held in San Francisco, January 20, 1917, the testimony being taken by Examiner Bancroft.

From the evidence it appears that prior to the month of June, 1915, the board of trustees of the city of Los Banos suggested to applicant that it procure a franchise for the maintenance and operation of its telephone plant in said city; that thereafter the company made an oral application for such franchise, and in compliance with such application, on July 7, 1915, the board of trustees of said city of Los Banos passed Ordinance No. 81, hereinafter more particularly described.

The ordinance grants to The Pacific Telephone and Telegraph Company, its successors and assigns, for the term of twenty-five years, the right and privilege to do a general telephone and telegraph business within said city of Los Banos, and to place, erect, lay, maintain and operate in and under the streets, alleys, avenues, thoroughfares and public highways within said city, poles, wires and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes. It is provided that such wires and other appliances and conductors may be strung on poles and other fixtures above ground at the option of said grantee, its successors or assigns, or may be laid underground in pipes or conduits, or otherwise protected, and such other apparatus may be used as may be necessary and proper to

operate and maintain the same. The ordinance provides for the proper restoration and repairing of the streets as soon as practicable after they may be disturbed by applicant, and gives the city the right to make such repairs at applicant's expense upon failure of the company to make them.

The ordinance also contains provisions protecting the city's rights in regard to sewerage, grading, planking, paving, repairing, altering or improving any of the streets or other public places, within said city, and provides that during the life of the franchise the city shall have the right to place, where aerial construction exists, a fixture on the tops of poles erected and maintained under the franchise, to which may be attached not exceeding four wires, and where underground conduits exist the city is to be furnished with one duet or two pairs of wires in the applicant's underground cable, free of charge, to be used for low tension police and fire alarm purposes, it being optional with applicant as to whether two pairs of wires or a duet shall be furnished.

The ordinance also contains a provision for the payment annually by said applicant to the city of 2 per cent of the gross receipts arising from the exercise of the franchise, subject to the provision, however, that no percentage shall be paid for the first five years from the effective date of the ordinance (August 6, 1915).

The ordinance contains certain other provisions, which we need not consider at this time.

It further appears that applicant for some years past has been operating a telephone exchange in the city of Los Banos, that it has at present 132 subscribers to said exchange, that there is no other telephone service or exchange operated in said territory, and that applicant's failure to make the necessary application to this commission for a certificate of public convenience and necessity in connection with said territory was due solely to the belief of applicant's officers that it was not necessary for it to obtain such authority.

The application should, in our opinion, be granted, subject to the conditions contained in the following order:

ORDER.

The Pacific Telephone and Telegraph Company having filed the above-entitled application asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held upon said application, the Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 81 of the city of Los Banos, approved July 7, 1915, provided that The

Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, agreeing for itself, its successors and assigns, that they will never claim before the Railroad Commission of the State of California or any other public authority any value for the rights and privileges conferred by said Ordinance No. 81 of the city of Los Banos in excess of the actual cost thereof to applicant, which cost shall be stated in said stipulation, and shall have secured from this commission a supplemental order herein declaring that such stipulation satisfactory to this commission has been filed.

Dated at San Francisco, California, this 31st day of January, 1917.

DECISION No. 4074.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

Application No. 2586.

Decided February 1, 1917.

Supplemental order permitting applicant to use \$52,014.92 of the proceeds of bonds heretofore authorized for the purpose of reimbursing its treasury covering capital expenditures made during the months of September, October and November, 1916.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas the Railroad Commission of the State of California by Decision No. 3816, dated October 24, 1916, authorized applicant herein to issue \$1,000,000.00 face value of its first mortgage 5 per cent 40-year gold bonds under its supplemental indenture of first mortgage, dated July 27, 1910; and

Whereas condition number 2 of said Decision No. 3816, dated October 24, 1916, reads as follows:

“The bonds herein authorized to be issued shall be issued for the purpose of reimbursing applicant for a portion of the expenditures set forth in Exhibit II, as amended, and filed with the application herein, and thereafter the proceeds from the sale of the bonds herein authorized to be issued shall be placed in a special fund and used by applicant only for additions and betterments under supplemental orders from this commission.”

And whereas applicant herein has filed on January 15, 1917, a supplemental application showing that during the months of September,

October and November, 1916, it has expended for capital purposes the sum of \$52,014.92, said capital expenditures being shown in detail in Exhibit "A" attached to said supplemental application; and

Whereas applicant herein asks authority to use \$52,014.92 of the proceeds obtained from the sale of the aforesaid \$1,000,000.00 face value of bonds, to reimburse its treasury for said capital expenditures, amounting to \$52,014.92; and

Whereas the Railroad Commission finds that the said sum of \$52,014.92 has been expended for proper capital purposes; and good cause appearing.

It is hereby ordered that Sierra and San Francisco Power Company be and it is hereby authorized to use \$52,014.92 of the proceeds obtained from the sale of its \$1,000,000.00 face value of its first mortgage 5 per cent 40-year gold bonds, the issue of which was authorized by Decision No. 3816, dated October 24, 1916, to reimburse its treasury for capital expenditures incurred during the months of September, October and November, 1916, said capital expenditures amounting to \$52,014.92 being set forth in Exhibit "A" attached to the supplemental application filed with this commission on January 15, 1917.

It is hereby further ordered that this commission's Decision No. 3816, dated October 24, 1916, shall remain in full force and effect except as modified by Decision No. 4048, dated January 23, 1917, said decision being the first supplemental order in this proceeding, and except as modified by this second supplemental order.

Dated at San Francisco, California, this first day of February, 1917.

DECISION No. 4075.

PACIFIC GAS AND ELECTRIC COMPANY

vs.

GREAT WESTERN POWER COMPANY.

Case No. 1016.

Decided February 1, 1917.

Complainant petitions the commission to prohibit defendant from constructing a transmission line for the purpose of serving with electric energy a certain ship-building firm in Contra Costa County.

1. An electric utility which has constructed its lines of a potential considerably in excess of those usually adopted for the economical distribution of electric energy, solely for the purpose of serving large and profitable consumers with no facilities for caring for smaller and less profitable patrons, should receive little consideration from this commission as far as receiving certificates of public convenience and necessity for the extension of its lines into new territory.

2. The present extension which defendant proposes to construct is one over a private right of way which requires no franchises from the county or a municipality, and as it is in line with defendant's general construction work, it is one that does not require it to secure a certificate from this commission. Complaint dismissed.

Charles P. Cutten, for Complainant.

Chaffee Hall and *Guy C. Earl*, for Defendant.

DEVLIN, Commissioner.

OPINION.

The complaint of Pacific Gas and Electric Company in this proceeding is directed against Great Western Power Company and alleges in effect:

That complainant is now and has been since long prior to March 23, 1912, engaged in the business of supplying electricity at reasonable rates to consumers in the city of Pittsburg and contiguous territory, and that it is now and has been since prior to March 23, 1912, been willing and able to supply all reasonable demands for electric service in the territory referred to; that prior to March 23, 1912, complainant was supplying with electric energy the firm of Johnson & Lanteri, engaged in the business of shipbuilding at a point one mile east of the western limits of the city of Pittsburg; that since March 23, 1912, B. P. Lanteri succeeded to the business formerly conducted by Johnson & Lanteri, and is now and has been for some time past the owner thereof, and that complainant has supplied B. P. Lanteri at his shipbuilding works with electricity since he became the owner thereof; that defendant, Great Western Power Company, has since a date prior to March 23, 1912, been supplying with electric energy the Bowers Rubber Company, situated on the road leading from Pittsburg to Antioch approximately 3,000 feet east of said shipbuilding plant of B. P. Lanteri, and that subsequent to March 23, 1912, said defendant has extended its lines in a westerly direction along the said Pittsburg-Antioch county road for a distance of approximately 1,500 feet to supply two consumers situated adjacent to said road; that said consumers have ceased to take service from defendant and defendant furnishes no electric service within 3,000 feet of the plant of said B. P. Lanteri.

The complaint further alleges that defendant did not have and has not since acquired a valid franchise to construct its lines along said Pittsburg-Antioch county road in a westerly direction from said plant of the Bowers Rubber Company, and that defendant did not obtain from this commission a certificate of public convenience and necessity as provided for in section 50 of the Public Utilities Act to authorize it to build said line in a westerly direction from the plant of the Bowers

Rubber Company, or to exercise any right or rights under any franchise which defendant may have claimed to have a right to exercise.

The complaint further sets forth that defendant has entered into a contract with said B. P. Lanteri to supply him with electric energy, and is now engaged in constructing a line for a distance of 1,500 feet from the end of the line, extending in a westerly direction from the plant of said Bowers Rubber Company, for the purpose of supplying service under said contract; that defendant in attempting to serve electric energy to said B. P. Lanteri under said contract is proceeding without authority and in violation of the provisions of the Public Utilities Act.

The commission is asked to make its order restraining defendant from extending its said distribution lines to supply said B. P. Lanteri with electric energy, and declaring that neither present nor future public convenience or necessity require or will require the construction of said line by defendant.

Defendant in its answer admits that it did not have and has not since acquired a valid franchise to construct its lines westerly along the Pittsburg-Antioch county road from the plant of the Bowers Rubber Company but contends that, inasmuch as said line occupies a private right of way, a franchise is not required by law. It is further admitted by defendant that it did not obtain from this commission a certificate of public convenience and necessity as provided in section 50 of the Public Utilities Act to authorize it to build said line westerly from the plant of the Bowers Rubber Company, but maintains that said certificate of public convenience and necessity is not required by law.

It is further admitted that defendant has entered into a contract to supply B. P. Lanteri with electric energy, and that it is now engaged in constructing a line to supply said service, and that defendant has not requested this commission to grant to it nor has it received a certificate of public convenience and necessity in connection with the furnishing of service to said B. P. Lanteri, but maintains that such certificate is not required by law. It is further alleged in the answer that said territory is already served by defendant, and that the line complained of is an extension necessary in the ordinary course of defendant's business.

The commission is asked to dismiss the complaint.

Upon a careful consideration of the evidence introduced on behalf of the parties hereto, the facts appear to be as follows:

Complainant, Pacific Gas and Electric Company, since long prior to the effective date of the Public Utilities Act, has been engaged in the business of furnishing electric service in that portion of Contra Costa County lying generally along the Sacramento River and along the bay shore of San Pablo Bay and Suisun Bay. It maintains sub-

stations at Pittsburg, Antioch, and various other points in said territory, together with transmission and distribution facilities for furnishing all classes of electric service set forth in its various schedules on file with this commission. For about five years complainant has been supplying electric energy, under contract, to the shipyards of B. P. Lanteri and his immediate predecessors in interest, Johnson and Lanteri, at a point on the Pittsburg-Antioch county road approximately 4,000 feet east of the incorporated limits of the town of Pittsburg.

In 1908 the 100-kilovolt line of defendant from its Big Bend hydro-electric plant to Oakland was completed and about three years later its Clayton substation was placed in operation. The 22-kilovolt line from Clayton to the bay shore territory, by way of Concord and Bay Point, was constructed during 1911, and in September of that year the 22-kilovolt line which supplies the Bowers Rubber Company was completed. The 22-kilovolt line into Pittsburg was completed about March 11, 1912. Subsequent to March 23, 1912, the lines supplying the plant of the Bowers Rubber Company were extended westerly along the private right of way parallel to the Pittsburg-Antioch county road for a distance of about 1,500 feet to serve the Oakland-Antioch and Eastern Railway Company during the construction of a ferryboat, which service was discontinued after the completion of this work.

At the time of the filing of the complaint herein, defendant had 22-kilovolt lines on three sides of the shipbuilding plant of B. P. Lanteri, and complainant was serving this consumer, and also had its distribution lines generally serving this entire district.

Some time prior to the filing of the complaint herein, defendant entered into a contract to supply B. P. Lanteri with electric energy under its filed schedule No. 500, which is as follows:

2.80 cents per kilowatt hour for first 60 kilowatt hours per month per horsepower.

1.75 cents per kilowatt hour for next 60 kilowatt hours per month per horsepower.

1.05 cents per kilowatt hour for next 60 kilowatt hours per month per horsepower.

.90 cents per kilowatt hour for all over 180 kilowatt hours per month per horsepower.

Minimum charge, \$1.00 per horsepower per month for first 50 horsepower of rated capacity and 50 cents per horsepower per month for all over 50 horsepower of rated capacity.

Complainant, Pacific Gas and Electric Company, has for some five years been supplying electric service to B. P. Lanteri, and his predecessors, at a straight meter rate of $2\frac{1}{2}$ cents per kilowatt hour, without any minimum charge, which rate is a deviation from the established schedule of complainant for this service. Schedule No. 142, of complainant, under which said B. P. Lanteri is entitled to receive service,

if required to pay the same rate demanded of other consumers similarly situated, is as follows:

3 cents per kilowatt hour for first 54 kilowatt hours per month per horsepower.

2 cents kilowatt hour for next 54 kilowatt hours per month per horsepower.

1.10 cents per kilowatt hour for next 54 kilowatt hours per month per horsepower.

.90 cents per kilowatt hour for all over 162 kilowatt hours per month per horsepower.

Minimum charge, \$1.00 per horsepower per month for first 50 horsepower installed and 50 cents per horsepower per month for all over 50 horsepower of installed capacity.

It is obvious that both complainant and defendant were engaged in the business of distributing and selling electric energy in the general territory involved in this proceeding prior to the effective date of the Public Utilities Act, and it is also clear that both are amply prepared to continue and extend such service. The rates of complainant and defendant are practically the same and there can be no question but that each is capable of giving proper and adequate service. It may, however, be well to point out that there is a certain difference between the character of service furnished by complainant and that supplied by defendant. Complainant, as has already been indicated, maintains and operates general distribution facilities around the bay shore territory and in each of the several municipalities and unincorporated villages. This general service requires a relatively large investment in lines of 11,000 volts and less, and a correspondingly heavy investment in line transformers, services and meters to meet the demand of the average consumer. Defendant, on the other hand, has very largely confined its investment and efforts to securing the larger consumers and to that end maintains lines of a potential considerably in excess of the usually accepted limits for economical distribution. It may be well at this point to call attention to the possibility that, if this practice were to become general throughout the rural districts, the utilities might urge unsuitable facilities as an excuse for refusing service to that class of prospective consumers whose individual requirements are relatively small and where, even under favorable circumstances, the supplying of electric energy presents no small problem. In this connection I desire to point out that the obligation and duty of an electrical corporation to serve does not imply that the serving utility has a right to select the class of consumers which it desires to serve. While I do not wish to be understood as charging defendant with an intent to refuse to supply service to the small, and, consequently, less profitable class of consumers, I do intend to clearly indicate that where an elec-

trical corporation maintains such character of distribution facilities as we find here, there is great danger that while possibly these facilities will most economically meet the demands of the relatively large consumer, the serving utility may find considerable difficulty in profitably fulfilling its full duty to the public, which obligation can only be discharged by meeting all reasonable demands for electric service from every class of consumer which the utility holds itself out to serve as set forth in its established schedules of rates. Nor can this duty and obligation be avoided, or in any way lessened, by the maintenance of facilities which may render any one of the several classes of service undesirable from the utility point of view. If the only issue involved in this proceeding was one of public convenience and necessity, and considering the problem involved in rural distribution, the present service facilities of defendant, consisting of 22-kilovolt lines would be exceedingly difficult to justify, particularly in view of the fact that complainant, as has already been stated, maintains distribution facilities apparently designed to more nearly meet the requirements of general distribution to consumers of all classes.

After full consideration of all the evidence introduced, I am of the opinion that the territory involved in this proceeding can reasonably be declared to be territory now served by both complainant and defendant, and that no certificate of public convenience and necessity is required by either party to extend its lines to serve consumers therein except in the event that permission is desired to exercise franchise rights. Under the circumstances, and in view of the fact that defendant does not intend to use the county roads of Contra Costa County in extending its service lines to the shipbuilding plant of B. P. Lanteri, I would recommend that the complaint herein be dismissed, and I submit the following form of order:

ORDER.

Pacific Gas and Electric Company having filed complaint in the above entitled proceeding, requesting that defendant be prevented from extending its distribution lines along the Pittsburg-Antioch county road to supply B. P. Lanteri with electric service, and defendant having answered said complaint and public hearing having been held thereon, and the matter being now ready for decision,

It is hereby ordered that the said complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of February, 1917.

DECISION No. 4076.
STANDARD OIL COMPANY
vs.
SOUTHERN PACIFIC COMPANY AND LOS ANGELES AND SALT LAKE
RAILROAD COMPANY.

Case No. 1028.

Decided February 1, 1917.

Defendant having collected from complainant a rate of \$1.30 per ton on shipments of oil, Newhall to East San Pedro, which rate exceeded by 30 cents the rate contemporaneously in effect in the opposite direction, it is directed to refund to complainant the sum of \$365.25 being charges collected in excess of the lawful rate.

S. G. Casad, for Complainant.

George D. Squires, for Defendant.

LOVELAND, Commissioner.

OPINION.

Complainant is a corporation engaged in the oil business, with headquarters at San Francisco.

By complaint filed December 9, 1916, it alleges that the rate of \$1.30 per ton charged by defendants for the transportation of twenty-five carloads of crude petroleum oil from Newhall to East San Pedro June 5, 1915, to October 2, 1915, both dates inclusive, was unjust, unreasonable and discriminatory and in violation of the Public Utilities Act, in that it exceeded the rate of \$1.00 per ton contemporaneously maintained by defendants in the opposite direction from East San Pedro to Newhall. Reparation is asked.

The shipments aggregated 2,434,095 pounds and charges were collected in the sum of \$1,582.30 at the \$1.30 per ton rate assessed. When the shipments moved defendants maintained a commodity rate of \$1.00 per ton from East San Pedro to Saugus, which rate, by intermediate application, applied to Newhall. A representative of the Southern Pacific Company testified that complainant, in December, 1916, called attention to the fact that the \$1.00 rate on crude oil applied only from East San Pedro to Newhall; that it was conceded the rate should have been published to apply in the opposite direction, Newhall to East San Pedro, the producing wells being located at the former point. Also, that the publication of the tariff was unintentionally delayed until April 4, 1916.

At this point I desire to call attention to this commission's Rule No. 102, carried in Tariff Circular No. 2, which provides that on full information adjustments of this character will be authorized upon informal complaints, provided the tariff in which the rate admitted to be reasonable is published and becomes effective within six months after the shipments moved; also that authorization will be granted even if

more than six months have elapsed between the movement of the shipment and the effective date of the tariff if the claim is filed with the commission within six months after the shipment moved. Under the circumstances, if the defendants in this case had carried out the provisions of Rule No. 102 there would have been no necessity for formal proceedings. The rate of \$1.00 per ton on petroleum crude oil from Newhall to East San Pedro became effective April 4, 1916, in Supplement No. 14, as per Item 2837.

I find that the rate of \$1.30 per ton was unreasonable to the extent that it exceeded the rate of \$1.00 per ton; that complainant made the shipments as described and paid charges thereon at the rate found to have been unreasonable; that it was damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rate of \$1.00 per ton and that it is entitled to reparation in the sum of \$365.25.

I herewith submit the following form of order:

ORDER.

This case having come on regularly for hearing and the Commission being duly apprised in the premises,

It is hereby ordered that the defendants Southern Pacific Company and Los Angeles and Salt Lake Railroad Company be and are hereby ordered to make reparation to the Standard Oil Company in the sum of \$365.25 as reparation on account of unreasonable charges collected for the transportation of twenty-five carloads of petroleum crude oil from Newhall to East San Pedro.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California this 1st day of February, 1917.

DECISION No. 4077.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY A CERTAIN ORDINANCE PASSED BY THE BOARD OF TRUSTEES OF THE CITY OF DINUBA ON JUNE 23, 1915.

Application No. 2708.

Decided February 1, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights secured under a franchise obtained from the city of Dinuba permitting the maintenance and operation of a telephone exchange in said city, provided a stipulation be filed to the effect that no value, other than actual original cost, will ever be claimed therefor.

Pillsbury, Madison & Sutro and James T. Shaw, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by The Pacific Telephone and Telegraph Company requesting that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by an ordinance entitled "An ordinance granting a franchise to The Pacific Telephone and Telegraph Company," passed by the board of trustees of the city of Dinuba, Tulare County on June 23, 1915.

A public hearing was held in San Francisco January 20, 1917, the testimony being taken by Examiner Bancroft.

It appears that applicant at the suggestion of the board of trustees of the city of Dinuba applied to that city for a franchise for the maintenance and operation of its telephone plant in said city, and that, in pursuance of said application, on June 23, 1915, the board of trustees of said city passed the ordinance above referred to.

Said ordinance grants to The Pacific Telephone and Telegraph Company, for the term of twenty-five years, a franchise to do a general telephone and telegraph business within said city of Dinuba, and to place, erect, lay, maintain and operate in and under the streets, alleys, avenues, thoroughfares and public highways within the said city, poles, wires and other appliances and conductors for the transmission of electricity for telephone and telegraph messages, and for the transmission of messages, subject to certain restrictions and conditions, among which may be mentioned the following:

Applicant is given authority to make the necessary use of streets and other public places for placing, erecting and maintaining its poles or conductors for wires, while provision is made for the proper restoring and repairing of the streets as soon as practicable after they may be torn up, or otherwise disturbed by applicant. Provision is also made for protecting the city's rights in regard to sewerage, grading, planking, rocking, paving, repairing, altering or improving any of the streets or other public places within said city, and provides that the city shall have the right to place, free of charge, where aerial construction exists, a fixture upon applicant's poles to which may be attached wires, not exceeding four in number, and where underground conduits exist, the city shall be entitled, free of charge, to one duct in the underground system or two pairs of wires in the underground cable for police and fire alarm purposes.

The ordinance also contains a provision for the payment annually by applicant to the city of Dinuba of 2 per cent of the gross receipts arising from the exercise of the franchise, subject to the provision, however, that no percentage shall be paid for the first five years from and after the effective date of said franchise. In event the payment provided for is not made as the same falls due, it is further provided that said franchise shall be immediately forfeited.

It further appears that applicant has for some years past been operating a telephone exchange in the city of Dinuba. That it has at present 278 subscribers to said exchange; that there is no other telephone service or exchange operated in said territory, and that the failure of The Pacific Telephone and Telegraph Company to make the necessary application to this commission for a certificate of public convenience and necessity in connection with said territory was due solely to the belief of applicant's officers that it was not necessary for it to obtain such authority.

The application should, in our opinion, be granted subject to the conditions contained in the following order:

ORDER.

The Pacific Telephone and Telegraph Company having filed the above entitled application asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held upon said application, the Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by the ordinance passed by the board of trustees of the city of Dinuba, June 23, 1915, entitled "An ordinance granting a franchise to The Pacific Telephone and Telegraph Company," provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, agreeing for itself, its successors and assigns, that they will never claim before the Railroad Commission of the State of California or any other public authority any value for the rights and privileges conferred by the ordinance of the city of Dinuba, above referred to, in excess of the actual cost thereof to applicant, which cost shall be stated in said stipulation, and shall have secured from this commission a supplemental order herein declaring that such stipulation satisfactory to this commission has been filed.

Dated at San Francisco, California, this 1st day of February, 1917.

DECISION No. 4078.

IN THE MATTER OF THE APPLICATION OF THE CITY OF SAN DIEGO
FOR AN ORDER ESTABLISHING THE RATES TO BE CHARGED
BY SAID CITY FOR THE DELIVERY OF WATER TO CONSUMERS
OUTSIDE THE BOUNDARIES OF SAID CITY.

Application No. 2724.

Decided February 1, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

The city of San Diego, the petitioner in the above entitled proceeding, and the owner of the water system therein referred to, having filed herein a motion, duly authorized by Resolution No. 22301 of the common council of the city of San Diego, that the above entitled proceeding be dismissed, and good cause appearing.

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st day of February, 1917.

DECISION No. 4079.

CALIFORNIA PACKING CORPORATION

vs.

SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY.

Case No. 1025.

Decided February 5, 1917.

BY THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

California Packing Corporation having, on February 1, 1917, filed an application for rehearing herein and the commission being of the opinion that no good reason is stated why a rehearing should be had,

It is hereby ordered that said application be and the same hereby is dismissed.

Dated at San Francisco, California, this 5th day of February, 1917.

DECISION No. 4080.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 92 OF THE CITY OF KINGSBURG.

Application No. 2710.

Decided February 5, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights secured under a franchise obtained from the city of Kingsburg, authorizing the maintenance and operation of a telephone system in said city, provided a stipulation be filed to the effect that no value will be claimed for such franchise in excess of the actual original cost thereof.

Pillsburg, Madison & Sutro and James T. Shaw, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by The Pacific Telephone and Telegraph Company requesting the Railroad Commission to make its order declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by Ordinance No. 92 of the city of Kingsburg, Fresno County, on September 13, 1915.

A public hearing was held in San Francisco, January 20, 1917, the testimony being taken by Examiner Baneroft.

From the evidence it appears that applicant, at the suggestion of the board of trustees of said city of Kingsburg, applied to that city for a franchise for the maintenance and operation of its telephone plant in said city, and that in pursuance of said application on September 13, 1915, the board of trustees of said city passed the ordinance above referred to.

Said ordinance grants to The Pacific Telephone and Telegraph Company, for the term of twenty-five years, a franchise to erect and maintain poles, wires and other appliances and conductors and to lay underground wires, conductors and fixtures for telephone and telegraph purposes upon and under the streets, avenues, thoroughfares and public highways of said city of Kingsburg, and to operate and conduct a telephone and telegraph business within said city, subject to certain restrictions and conditions, among which may be mentioned the following:

Applicant is given authority to make the necessary use of streets and other public places for erecting, placing and maintaining its poles or conductors for wires, although it is provided that no poles, wires or other appliances or conductors for the transmission of electricity

shall be placed, erected, laid or operated in or under any streets or avenues of said city where it is practicable to place and maintain the same in or under an alley or alleys, and further that no poles shall be placed or erected on Draper street of said city. Provision is made for the proper and prompt restoring and repairing of the streets and other public places as soon as practicable after they may be torn up or otherwise disturbed by applicant, also for protecting the city's rights in regard to sewerage, grading, planking, rocking, paving, repairing, altering, or improving any of the streets or other public places within said city.

The ordinance further provides that the city of Kingsburg shall have the right to place, where aerial construction exists, a fixture erected and maintained under said franchise, to which may be attached wires, not exceeding four in number, and where underground conduits exist, the city shall be entitled, free of charge, to one duct in the underground system, or two pairs of wires in the underground cable, to be used for low tension police and fire alarm purposes, it being optional with applicant as to whether two pairs of wires or a duct shall be furnished.

The ordinance also contains a provision for the payment annually by said applicant to the city of 2 per cent of the gross receipts arising from the exercise of the franchise, subject to the provision, however, that no percentage shall be paid for the first five years from the effective date of the ordinance.

It further appears that applicant for some time past has been operating a telephone exchange in the city of Kingsburg, that it has at present 105 subscribers to said exchange, that there is no other telephone service or exchange operated in said territory, and that applicant's failure to make the necessary application to this commission for a certificate of public convenience and necessity in connection with said territory was due solely to the belief of applicant's officers that it was not necessary for it to obtain such authority.

The application should, in our opinion, be granted, subject to the conditions contained in the following order:

ORDER.

The Pacific Telephone and Telegraph Company having filed the above entitled application asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held upon said application, the Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 92 of the city of Kingsburg, approved September 13, 1915, provided that

The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, agreeing for itself, its successors and assigns that they will never claim before the Railroad Commission of the State of California or any other public authority any value for the rights and privileges conferred by said Ordinance No. 92 of the city of Kingsburg in excess of the actual cost thereof to applicant, which cost shall be stated in said stipulation, and shall have secured from this commission a supplemental order herein declaring that such stipulation satisfactory to this commission has been filed.

Dated at San Francisco, California, this 5th day of February, 1917.

DECISION No. 4081.

RICE ASSOCIATION OF CALIFORNIA AND PACIFIC RICE GROWERS
ASSOCIATION

vs.

SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY, SACRAMENTO TRANSPORTATION
COMPANY, FARMERS TRANSPORTATION COMPANY, CALIFORNIA
TRANSPORTATION COMPANY, AND JOHN P. COGHLAN, RECEIVER
FOR PROPERTIES OF NORTHERN ELECTRIC RAILWAY COMPANY,
INTERVENERS.

Case No. 923.

Decided February 5, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainants having, by letter of January 29, 1917, advised the commission that they contemplate filing a new complaint with the Railroad Commission involving the subject matter of this proceeding, and the defendants and interveners having, on February 1, 1917, stipulated their consent to the rescission of the orders heretofore made in this proceeding on June 16, 1916, and September 23, 1916,

It is hereby ordered that the orders heretofore made in this proceeding on June 16, 1916, and September 23, 1916, be and the same are hereby rescinded, and that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 5th day of February, 1917.

DECISION No. 4082.

IN THE MATTER OF THE APPLICATION OF RIVER BEND GAS AND WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; APPLICATION OF ALTA DISTRICT GAS COMPANY TO SELL AND RIVER BEND GAS AND WATER COMPANY TO BUY A CERTAIN GAS PLANT; APPLICATION OF PARLIER WINERY TO SELL AND RIVER BEND GAS AND WATER COMPANY TO BUY A CERTAIN WATER WORKS, GAS FRANCHISE AND LANDS; APPLICATION OF RIVER BEND GAS AND WATER COMPANY TO ISSUE AND SELL CAPITAL STOCK.

Application No. 2632.

Decided February 5, 1917.

Alta District Gas Company and Parlier Winery authorized to transfer their property, franchises and rights to River Bend Gas and Water Company, which latter company is authorized to issue \$137,300.00 par value of its capital stock; \$50,000.00 par value to Alta company, \$12,300.00 par value to Parlier company, the balance covering moneys advanced, promotion expenses and to qualify directors. It is also authorized to issue \$56,700.00 par value of stock to be sold at not less than 90, proceeds to be used for betterments and improvements as specified under supplemental orders of the commission. Certificate, authorizing the exercise of rights under franchises acquired, also granted.

1. Before the transfer of its water properties can be consummated, the Parlier company, at present operating its water system without a franchise, is required to obtain a franchise from the county of Fresno and secure a supplemental order from the commission approving the same.
2. Though a company operating a water distributing system transfers such distributing system to another company under an agreement whereby it is to furnish the distributing company with water in wholesale quantities, it still retains its public utility nature.
3. When an official of a company other than a public utility superintends the construction of a public utility plant in an efficient and economical manner, the sum of \$5,000.00 is not considered an unreasonable allowance for promotion expenses.
4. The sale of stock of a company of the nature of applicant at 75 per cent of its par value is considered unreasonably low. Order conditioned to provide for a discount of not to exceed 10 per cent.
5. A franchise secured from a municipality by a public utility purporting to fix the heating value and pressure under which gas shall be distributed can not be approved unless such approval is so conditioned that it shall not in any degree constitute a waiver of the commission's power to regulate such matters.
6. A utility which commences operations before it has secured a final order from the commission on its petition for a certificate is violating section 50 of the Public Utilities Act and subjects itself to the penalties thereof.

Chaffee E. Hall, for Applicants.

GORDON, Commissioner.

OPINION.

This is an application of River Bend Gas and Water Company, operating in Fresno County, for authority to purchase the gas plant and system of Alta District Gas Company of Dinuba, Tulare County, and the water system of Parlier Winery, located at Parlier, Fresno County.

River Bend Gas and Water Company also asks for authority to issue \$233,500.00 par value of stock as hereinafter more fully set forth and for certificates of public convenience and necessity to operate in the city of Kingsburg, Fresno County, and in certain unincorporated territory in Fresno and Tulare counties. Alta District Gas Company and Parlier Winery join in the application and ask for authority to sell their public utility properties to River Bend Gas and Water Company.

River Bend Gas and Water Company was incorporated under the laws of the State of California on April 2, 1915. It purchases gas from Alta District Gas Company at Dinuba and at the present time is serving the towns of Reedley, Parlier, Kingsburg and certain intervening territory.

The company was originally incorporated with an authorized capital stock issue of \$100,000.00. This has recently been increased to \$250,000.00, or 2,500 shares of the par value of \$100.00 per share. River Bend Gas and Water Company to date has issued but 5 shares of stock. This stock is controlled by Parlier Winery, but has been transferred to directors for qualifying purposes. The company has no mortgages upon its properties and has issued no bonds or notes. Its only indebtedness consists of advances made by Parlier Winery amounting to \$62,075.86, as of August 1, 1916.

Alta District Gas Company operates in the city of Dinuba, Tulare County, under a franchise granted to one A. A. Weber in June, 1913. The company was incorporated on June 13, 1913, with a total authorized capital stock issue of \$45,000.00, being 45,000 shares of the par value of \$1.00 per share. At the present time 28,000 shares of stock are outstanding all of which are owned by Parlier Winery, with the exception of directors' qualifying shares. On August 1, 1916, the company's liabilities consisted of two notes aggregating \$15,000.00, and other indebtedness of \$3,882.48. The latter sum represents advances made from time to time by Parlier Winery.

Parlier Winery was incorporated on May 5, 1909. In connection with its wine and distilling business it operates a small water plant and system. Subsequent to the hearing, it developed that this system is being operated without a franchise. Applicants should proceed at once to secure the necessary permit from the county of Fresno.

Parlier Winery now desires to be relieved from the burdens of a public utility to which it is subjected by the ownership of its water system, and it therefore proposes to consolidate its water utility properties with the two gas companies which it controls; namely, Alta District Gas Company and River Bend Gas and Water Company.

In effecting this consolidation, it is proposed that River Bend Gas and Water Company shall issue stock at 75 per cent of par, as follows:

	Par value of stock
To Alta District Gas Company for entire property and assets as of August 1, 1916, free and clear from debts and encumbrances.....	\$61,200 00
To Parlier Winery for waterworks and land as of August 1, 1916, free and clear from debts and encumbrances.....	14,200 00
To Parlier Winery for advances to River Bend Gas and Water Company to August 1, 1916, amounting to \$62,075.86.....	\$2,800 00
To Parlier Winery for promotion services estimated at \$5,000.00.....	6,700 00
To be sold to Parlier Winery for cash for legal expenses amounting to \$1,000.00.....	1,333 00
To be sold to Parlier Winery for cash for additions and betterments during next two years estimated at \$50,000.00.....	66,667 00
To be issued to directors in lieu of shares heretofore issued for qualification purposes	500 00
Total	\$233,500 00

I shall take up the above items in order.

Alta District Gas Company acquired its plant from one A. A. Weber under authority of this commission granted by Decision No. 972 (Vol. 3, Opinions and Orders of the Railroad Commission of California, page 623), and Decision No. 1980 (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 814). The consideration for the transfer was the issuance to said A. A. Weber of \$28,000.00 par value of stock of Alta District Gas Company, the property being transferred subject to indebtedness amounting to approximately \$11,000.00. The \$28,000.00 of stock acquired by Mr. Weber has since come into the hands of Parlier Winery, and the properties of Alta District Gas Company have been operated for approximately a year past in conjunction with the properties of River Bend Gas and Water Company.

As of August 1, 1916, the "book value" of the assets of Alta District Gas Company is stated by the applicants herein to be the sum of \$45,879.55. While applicants contend that this figure does not reflect the true value of the property, it is proposed to use this figure as the basis of the proposed transfer and issue of stock.

A valuation made by W. J. Hammond, assistant engineer of the commission, places the estimated reproduction cost new of the properties of River Bend Gas and Water Company and Alta District Gas Company as of November 1, 1916, at \$121,538.00. This figure does not include materials and supplies amounting to approximately \$5,000.00. Mr. Hammond places the estimated reproduction cost new of the properties of Alta District Gas Company as of August 1, 1916, at approximately \$50,000.00. The original cost appears to have been approximately \$45,000.00.

The water utility system owned and operated by Parlier Winery was first installed in 1913. The water supply is obtained from a well owned by the winery. Water is raised from the well by means of a steam pump, the steam being obtained direct from the steam plant used in conjunction with the winery. Parlier Winery proposes to retain the well and the ground on which it is located, transferring to River Bend Gas and Water Company the real estate upon which the tank and the tower are located, and the distributing system.

It is proposed that River Bend Gas and Water Company and Parlier Winery shall enter into a contract by which Parlier Winery will furnish water, including steam and labor for pumping, to River Bend Gas and Water Company, for the sum of \$150.00 per month. If this arrangement is carried into effect, River Bend Gas and Water Company will neither own nor control the source of its water supply and Parlier Winery, in so far as it sells water to River Bend Gas and Water Company, will remain a public utility.

The "book cost" of the water works and lands proposed to be transferred to River Bend Gas and Water Company as of August 1, 1916, is stated by applicant to be the sum of \$10,736.17. James Armstrong, assistant engineer for the commission, reported at the hearing that the original cost of the property as of December 1, 1916, was estimated by him to be the sum of \$11,153.72. During the eleven months of 1916, the total additions and betterments added amounted to \$473.10. From this I believe we may safely assume the original cost as of August 1, 1916, to have been approximately \$11,000.00.

As heretofore stated, Parlier Winery has advanced to River Bend Gas and Water Company up to August 1, 1916, the sum of \$62,075.86. Parlier Winery is entitled to reimbursement for these advances, and I shall recommend that River Bend Gas and Water Company be permitted to issue stock therefor.

In asking for the issue of sufficient amount of stock to Parlier Winery to net the sum of \$5,000.00 for promotion services, applicants call attention to the fact that no charges have been made by Parlier Winery for the services of its employees in promoting the organization and business of River Bend Gas and Water Company. Mr. R. K. Madsen, manager of Parlier Winery, is also general manager of River Bend Gas and Water Company and until recently his services have been donated to the gas company without charge.

It appears that during the construction period, Mr. Madsen supervised every detail of the work and it further appears that due to his ability, a substantial saving was made in the cost of construction.

I am of the opinion that this commission may reasonably authorize the issue of a sufficient amount of stock to Parlier Winery to reimburse it for promotion services amounting to \$5,000.00.

I am further of the opinion that River Bend Gas and Water Company may be allowed to sell stock to Parlier Winery to net \$1,000.00 for legal expenses.

I shall now consider the proposed sale of stock by River Bend Gas and Water Company to net \$50,000.00 for additions and betterments. It was applicants' original intention to issue and sell only sufficient stock to net \$10,000.00 for this purpose. At the hearing, however, the application was amended with the request that River Bend Gas and Water Company be provisionally authorized to issue and sell during the next two years a sufficient amount of stock to net the sum of \$50,000.00.

The company states that it has under consideration an extensive construction program, including extensions in and about the towns of Sanger, Del Rey, Sultana, Orosi and Cutler. I am willing to recommend the issue of this stock upon the condition, however, that the proceeds from the sale of said stock shall only be expended under supplemental orders from this commission.

I shall also recommend that River Bend Gas and Water Company be permitted to issue five shares of stock in lieu of the shares heretofore issued to qualify directors.

I now come to a consideration of River Bend Gas and Water Company's request that it be allowed to issue stock at not less than 75 per cent of par. While I am ready to recognize that this company is as yet in the development stage and that a reasonable discount upon its stock may be allowed, I am not willing to recommend the sale of stock at the figure asked for. Under all the circumstances of this particular case, a discount of not to exceed 10 per cent appears to me to be reasonable, and I shall so recommend.

In Decision No. 2416 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 1064), this commission granted Parlier Winery authority to transfer to River Bend Gas and Water Company, a franchise from the city of Reedley, dated March 3, 1915, a franchise from the county of Fresno, dated February 11, 1915, and a franchise from the city of Kingsburg, when the same should have been granted.

The commission further declared that public convenience and necessity required the exercise by River Bend Gas and Water Company of the rights granted by the above-mentioned franchises from the city of Reedley and the county of Fresno, and declared that upon further application it would issue a certificate of public convenience and necessity under the franchise to be obtained from the city of Kingsburg. This franchise has since been obtained and a request for the issue of a final certificate of public convenience and necessity is included in the application herein.

In examining the copy of the franchise from the city of Kingsburg, which has been filed in connection with the application herein, I find that section 7 of said franchise contains certain provisions assuming to fix the heating value and pressure under which gas shall be furnished by the grantee.

In view of the fact that these are matters which may affect the jurisdiction of this commission, I shall recommend that a certificate of public convenience and necessity be issued on such conditions as shall not in any degree constitute a waiver of this commission's power hereafter to regulate any of the matters relating to this utility which may properly come under its jurisdiction.

At the hearing it developed that River Bend Gas and Water Company has commenced operations in the city of Kingsburg although it has not obtained a final order from this commission upon its application for a certificate of public convenience and necessity. This is clearly a violation of the provisions of section 50 of the Public Utilities Act. Applicant should be advised that this commission is not disposed to deal lightly with offenders in this regard.

In connection with the transfer of the public utility properties of Parlier Winery to River Bend Gas and Water Company, authority is asked to transfer two franchises, as follows:

A fifty-year franchise from the county of Tulare, adopted August 15, 1915, under Ordinance No. 133, granting Parlier Winery, or its successors, the right to construct and operate a gas distributing system within the towns of Sultana, Orosi, Cutler and adjoining territory and also along certain described county highways.

A fifty-year franchise from the county of Fresno, adopted July 10, 1915, under Ordinance No. 158, granting to Parlier Winery, its successors and assigns, the right to construct and operate a gas distributing system in the towns of Sanger and Del Rey and adjoining territory and along certain described county roads.

Both of the above mentioned franchises provide for payment to the respective grantors annually after the first five years of 2 per cent of the gross annual receipts.

As the territory covered by these franchises is not at present occupied by any utilities of like character, I shall recommend that River Bend Gas and Water Company be granted certificates of public convenience and necessity thereunder.

At the date of hearing, December 9, 1916, River Bend Gas and Water Company and Alta District Gas Company were serving 1,016 consumers. Mr. LeBaron, superintendent of the River Bend Gas and Water Company, testified that during the past three or four months approximately 50 consumers per month have been added.

For the year ending December 31, 1916, Mr. LeBaron estimated that the gross revenue would amount to approximately \$24,000.00. During the year 1917, he estimates that this revenue will be increased to approximately \$3,000.00 per month or \$36,000.00 per year, and that the number of patrons will be increased from 1,200 to 1,400.

At the date of the hearing Parlier Winery's water system had 128 consumers as against 112 on December 31, 1915. The gross revenue of this water system for the year 1915 was \$2,579.71. For the year 1916 it is estimated at \$2,996.89. If this property is sold to River Bend Gas and Water Company, Parlier Winery will be one of its heaviest consumers. To date the winery company had paid nothing for the water which it has used. The operating expenses of the water system are figured at \$1,860.00, being \$150.00 per month for water and pumping expenses and \$5.00 per month paid to a bank for collection service.

From these figures it appears that River Bend Gas and Water Company will be enabled to earn a fair profit upon a reasonable capitalization. The territory which it proposes to serve is a prosperous one and the demand for gas and water service should show a healthy increase during the next decade.

After a careful consideration of the matters involved in this application, I submit the following form of order:

ORDER.

River Bend Gas and Water Company, Parlier Winery and Alta District Gas Company having applied to this commission for authority to transfer certain public utility property, as set forth in the foregoing opinion; and River Bend Gas and Water Company having applied to this commission for a certificate that public convenience and necessity require the exercise by it of the rights granted by Ordinance No. 133 of the county of Tulare, Ordinance No. 158 of the county of Fresno, and Ordinance No. 91 of the city of Kingsburg; and River Bend Gas and Water Company having applied to this commission for authority to issue stock; and a hearing having been held; and it appearing to this commission that applicants' requests are reasonable and should be granted and that the purposes for which it is proposed to issue stock are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Alta District Gas Company be and it is hereby authorized to sell and River Bend Gas and Water Company be and it is hereby authorized to purchase the business, franchises and property of the Alta District Gas Company as the same existed on August 1, 1916; a description of the real property so to be transferred being attached to this decision and marked Exhibit 1.

It is hereby further ordered that Parlier Winery be and it is hereby authorized to sell and River Bend Gas and Water Company be and it

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is hereby authorized to purchase the water works, system and franchises of Parlier Winery as the same existed on August 1, 1916, a description of the real property so to be transferred being attached to this decision and marked Exhibit 2.

It is hereby further ordered that River Bend Gas and Water Company be and it is hereby authorized to issue stock as follows:

(a) To Alta District Gas Company in full payment for its properties as of August 1, 1916, stock of the par value of-----	\$50,000 00
(b) To Parlier Winery in full payment for its water works as of August 1, 1916, stock of the par value of-----	12,300 00
(c) To Parlier Winery in full payment for advances to August 1, 1916, stock of the par value of-----	69,000 00
(d) To Parlier Winery in full payment for promotion services to August 1, 1916, stock of the par value of-----	5,560 00
(e) To directors of River Bend Gas and Water Company in lieu of shares heretofore issued five shares of the par value of---	500 00
Total -----	\$137,360 00

It is hereby further ordered that River Bend Gas and Water Company be and it is hereby authorized to issue and sell for cash, at not less than 90 per cent of its par value, 56,700 shares of stock for the following purposes:

Legal expenses-----	\$1,000 00
Additions and betterments to plant and system-----	50,000 00
Total -----	\$51,000 00

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by River Bend Gas and Water Company of the rights and privileges conferred by Ordinance No. 91 of the city of Kingsburg, county of Fresno, adopted on or about July 25, 1915; Ordinance No. 158 of the county of Fresno adopted July 10, 1915; and Ordinance No. 133 of the county of Tulare, adopted August 15, 1915.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The price at which the properties of Alta District Gas Company and the water system of Parlier Winery are transferred to River Bend Gas and Water Company shall not be binding upon this commission or any other public body as representing the value of said properties for rate making or other purposes.

(2) The properties herein authorized to be transferred shall be transferred free and clear from all encumbrances.

(3) Before this order shall become effective, River Bend Gas and Water Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors declaring that River Bend Gas and Water Company, its successors and assigns, will never claim

before the Railroad Commission or any court or other public body a value for any rights or privileges which it may obtain under Ordinance No. 91 of the city of Kingsburg, adopted on or about July 25, 1915; Ordinance No. 158 of the county of Fresno, adopted July 10, 1915; and Ordinance No. 133 of the county of Tulare, adopted August 15, 1915, or under any franchises acquired from Alta District Gas Company in excess of the actual cost to River Bend Gas and Water Company of acquiring said franchises, and it shall receive from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory to the Railroad Commission has been filed with the Railroad Commission.

(4) The authority herein granted Parlier Winery to sell and River Bend Gas and Water Company to buy the water plant and system of the former company shall not become effective until Parlier Winery shall have filed with this commission a copy of the contract which it proposes to enter into for the sale of water to River Bend Gas and Water Company and shall have secured from this commission a supplemental order approving the same.

(5) Before the authority herein granted Parlier Winery to transfer its water utility properties to River Bend Gas and Water Company and of River Bend Gas and Water Company to issue stock in payment therefor, shall become effective, Parlier Winery shall secure a franchise for the operation of its water utility system from the county of Fresno and shall secure a supplemental order from this commission approving the same.

(6) The stock herein authorized to be sold by River Bend Gas and Water Company for additions and betterments shall only be sold as needed and the proceeds from the sale of said stock shall be placed in a special trust fund to be expended only upon further orders from this commission after River Bend Gas and Water Company shall have filed with this commission a detailed statement of the additions and betterments which it proposes to construct.

(7) Nothing in this order or the opinion which precedes it and no provision contained in Ordinance No. 91 of the city of Kingsburg, shall in any manner abridge or restrict the jurisdiction or control of this commission over River Bend Gas and Water Company or over the whole or any portion of its system or in any manner affect this commission's power hereinafter to issue such orders in relation thereto as this commission may deem proper.

(8) River Bend Gas and Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month, the company shall make verified reports to this commission setting forth the sale or

sales during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(9) The authority herein granted to transfer property and to issue stock shall apply only to such property as shall have been transferred and such stock as shall have been issued on or before December 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of February, 1917.

EXHIBIT No. 1.

Lots One (1), Two (2), Three (3), Four (4) and Five (5) in Block Fifty-seven (57) of the City of Dinuba, County of Tulare, State of California, as per map recorded in book 3, page 15 of Maps, in the office of the County Recorder of said County of Tulare.

EXHIBIT No. 2.

That certain lot, piece or parcel of land situate, lying and being in the Town of Parlier, County of Fresno, State of California and particularly described as follows, to wit:

Beginning at a point Two Hundred and Twenty-five (225) feet west of the intersection of the southerly line of Tulare Street with the westerly line of "K" Street; running thence westerly along the said southerly line of Tulare Street One Hundred and Twenty-five (125) feet; thence at right angles southerly a distance of One Hundred and Fifty (150) feet; thence at right angles easterly a distance of One Hundred and Twenty-five (125) feet; thence at right angles northerly a distance of One Hundred and Fifty (150) feet to the place of beginning.

DECISION No. 4083.

IN THE MATTER OF THE APPLICATION OF COACHELLA VALLEY ICE AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED THOUSAND DOLLARS.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY FOR AUTHORITY TO GUARANTEE THE PRINCIPAL AND INTEREST OF BONDS OF THE COACHELLA VALLEY ICE AND ELECTRIC COMPANY OF THE FACE VALUE OF THREE HUNDRED THOUSAND DOLLARS.

Application No. 839.

Decided February 5, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this commission, in Decision No. 1135, dated December 13, 1913 (Volume 3, Opinions and Orders of the Railroad Commission of

California, page 1059), authorized the Coachella Valley Ice and Electric Company to issue \$300,000.00 face value of first mortgage 6 per cent bonds at eighty (80%) per cent of face value plus accrued interest, and

Whereas said order provided that no dividends should be declared by Coachella Valley Ice and Electric Company until one-third of the discount on said bonds should have been amortized from earnings and that during each subsequent year thereafter until said discount should have been completely amortized from earnings that the company should declare no dividends until the proportionate amount of the remaining unamortized discount should have been amortized, and

Whereas applicant has now represented to the commission that at the present time the sum of \$55,000.00 remains to be amortized out of its earnings, and

Whereas applicant has requested that the commission's order in Decision No. 1135 be amended to allow the \$55,000.00 of bond discount remaining to be proportionately amortized each year so that dividends may be declared from the remaining surplus if earned;

And it appearing to this commission that its order in Decision No. 1135 may be modified to provide that Coachella Valley Ice and Electric Company shall amortize the discount on its bonds ratably over a period of twenty years,

It is hereby ordered that condition No. 4 of said Decision No. 1135, reading as follows: "Coachella Valley Ice and Electric Company shall declare no dividends until one-third of the discount on the bonds hereby authorized to be sold shall have been amortized from earnings, and during each subsequent year thereafter until said discount shall have been completely amortized from earnings, said company shall declare no dividends until the proportionate amount of the remaining unamortized discount shall have been amortized," be and it is hereby amended to read as follows:

"(4) The discount on the bonds hereby authorized to be sold shall be amortized by Coachella Valley Ice and Electric Company out of its earnings ratably over a period of twenty years."

It is hereby further ordered that this commission's Decision No. 1135, dated December 13, 1913, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this 5th day of February, 1917.

Decision No. 4084, grade crossing; not printed. See end of volume.

DECISION No. 4085.

IN THE MATTER OF THE APPLICATION OF FONTANA POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, FOR PERMISSION TO ISSUE STOCK AND BONDS AND TO MORTGAGE PROPERTY TO SECURE SAID BONDS, AND FOR PERMISSION TO ENTER INTO A CERTAIN INDENTURE OF LEASE.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, TO ENTER INTO A CERTAIN INDENTURE OF LEASE AND TO ENTER INTO A CERTAIN CONTRACT FOR THE SALE OF POWER.

IN THE MATTER OF THE APPLICATION OF RIALTO DOMESTIC WATER COMPANY, A CORPORATION, TO ENTER INTO A CERTAIN CONTRACT FOR THE PURCHASE OF POWER.

Application No. 2245.

Decided February 6, 1917.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this commission in Decision No. 4067, dated January 30, 1917, authorized Fontana Power Company to execute a mortgage and deed of trust upon its properties substantially in the form of a mortgage and deed of trust filed by Fontana Power Company in this proceeding and marked Exhibit "J"; and

Whereas Fontana Power Company has now filed with this Commission a mortgage and deed of trust marked "Exhibit 'J,' Amended," which mortgage and deed of trust differs in certain minor particulars from the mortgage and deed of trust heretofore approved by the commission; and

Whereas Fontana Power Company has requested that this commission issue an order approving said mortgage and deed of trust as amended, and it appearing to this commission that said request is reasonable and should be granted,

It is hereby ordered that Fontana Power Company be and it is hereby authorized to execute a mortgage and deed of trust upon its properties substantially in the form of a mortgage and deed of trust filed by Fontana Power Company in this proceeding on February 6, 1917, and marked "Exhibit 'J,' Amended."

The approval herein given of said mortgage is for the purpose of this proceeding only and is an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

Dated at San Francisco, California, this 6th day of February, 1917.

DECISION No. 4086.

IN THE MATTER OF THE APPLICATION OF FRESNO CANAL AND LAND COMPANY FOR AUTHORITY TO SELL AND OF FRESNO CANAL AND LAND CORPORATION FOR AUTHORITY TO PURCHASE CERTAIN PROPERTIES, AND THE APPLICATION OF FRESNO CANAL AND LAND CORPORATION TO ISSUE ITS CAPITAL STOCK OF THE PAR VALUE OF ONE MILLION DOLLARS, AND ITS BONDS IN THE FACE VALUE OF SIX HUNDRED THOUSAND DOLLARS.

Application No. 2727.

Decided February 7, 1917.

Fresno Canal and Land Company authorized to transfer all of its property and rights to Fresno Canal and Land Corporation, which latter company is authorized to issue \$1,000,000.00 par value of its capital stock in exchange therefor and \$600,000.00 face value of its bonds, to be issued at not less than 90, for the purpose of discharging, in so far as possible, outstanding first mortgage bonds of the Fresno company.

1. Section 7 of article 12 of the constitution of the State of California provides that the franchise or charter of a quasi-public corporation shall not be extended or renewed. It is accordingly necessary that a new corporation be formed when it is desired to issue securities the date of maturity of which is subsequent to the corporate life of the present company.
2. The State of California has reserved to itself the right to impose such conditions as may be deemed necessary on the transfer of a public utility corporation's franchises and property. Fresno corporation required to file a stipulation to the effect that it will assume all obligations and liabilities at present resting against the Fresno company.

Short & Sutherland, by W. A. Sutherland, for Petitioners.

THELEN, Commissioner.

OPINION.

This is an application of Fresno Canal and Land Company (formerly Fresno Canal and Irrigation Company), for an order authorizing the transfer of its irrigation properties to Fresno Canal and Land Corporation in exchange for \$1,000,000.00 par value of capital stock of the latter company, and of Fresno Canal and Land Corporation for an order authorizing the issue of said capital stock and of its bonds of the face value of \$600,000.00 to be secured by mortgage or deed of trust upon the property to be thus acquired by Fresno Canal and Land Corporation.

A public hearing herein was held in Fresno on January 19, 1917. The following exhibits have been filed subsequent to the hearing, have been given the exhibit numbers indicated and under stipulation by petitioners are part of the evidence herein:

Petitioners' Exhibit No. 6—Proposed deed of trust or mortgage, Fresno Canal and Land Corporation to First Federal Trust Company.

Petitioners' Exhibit No. 7—Supplemental indenture—April 28, 1893—Fresno Canal and Irrigation Company to California Safe Deposit and Trust Company.

Petitioners' Exhibit No. 8—Mortgage, November 28, 1894, Fresno Canal and Irrigation Company to United Guardian Company, Limited.

Petitioners' Exhibit No. 9—Mortgage, April 14, 1896, Fresno Canal and Irrigation Company to L. A. Nares and Charles A. Laton.

Petitioners' Exhibit No. 10—Statement *in re* Laguna Lands, Limited.

Petitioners' Exhibit No. 11—Segregation of 20 per cent overhead.

Petitioners' Exhibit No. 12—Agreement, November 15, 1916, Laguna Lands and Blankenhorn-Hunter Company.

Petitioners' Exhibit No. 13—List of free water rights.

Petitioners' Exhibit No. 14—Copy Minutes Board of Directors, Fresno Canal and Irrigation Company, March 22, 1889.

Petitioners' Exhibit No. 15—Contracts paying for water less than 62½ cents per acre.

Fresno Canal and Land Company is engaged in supplying water for irrigation purposes to consumers in Fresno and Kings counties. It secures water from the Kings River and serves approximately 200,000 acres. Its predecessor, Fresno Canal and Irrigation Company, was incorporated on February 16, 1871. By decree of the Superior Court of the county of Fresno, dated November 6, 1916, its name was changed to Fresno Canal and Land Company.

At the public hearing herein, Fresno Canal and Land Company, through its president, Mr. L. A. Nares, made public declaration that the company is a public utility, subject in all respects to supervision and regulation by the Railroad Commission. Fresno Canal and Land Corporation, the new corporation, will likewise be a public utility.

Fresno Canal and Land Company has outstanding \$1,250,000.00 par value of capital stock divided into 12,500 shares of the par value of \$100.00 per share. All of said stock with the exception of directors' qualifying shares, is owned by United Guardian Company, Limited, an English corporation.

A balance sheet of Fresno Canal and Irrigation Company, prepared by Price, Waterhouse & Company as of October 31, 1916, shows mortgage indebtedness as follows:

Date	Mortgagee	Indebtedness secured
May 15, 1891	California Safe Deposit and Trust Company.....	\$1,000,000 00
Apr. 14, 1896	L. A. Nares and Chas. A. Laton.....	521,792 16
Nov. 28, 1891	United Guardian Company, Limited.....	52,069 99
	Total	\$1,573,862 15

The history of these mortgages is, in brief, as follows:

The mortgage to California Safe Deposit and Trust Company, dated May 15, 1891, was executed for the purpose of raising funds with which to purchase the Laguna de Tache grant of 64,000 acres. Eight hundred fifty thousand dollars was secured from the sale of the bonds issued thereunder and was applied upon the total purchase price of approximately \$1,150,000.00. The bonds issued under this mortgage matured July 1, 1911. In 1913, First Federal Trust Company, successor to California Safe Deposit and Trust Company as trustee under this mortgage, brought suit for foreclosure. The matter has remained in abeyance, however, under an agreement with the bondholders to the effect that the payment of the bonds might be extended for an additional period. Practically all of the indebtedness under this mortgage is held by English investors.

The mortgage to Nares and Laton, dated April 14, 1896, was given to secure Manchester Trust, Limited, of Manchester, England, United Trust, Limited, of Liverpool, England, and Liverpool Mortgage Insurance Company, Limited, of Liverpool, England, for moneys advanced to pay bond interest. These advances, at the date of the mortgage, amounted to \$80,000.00. The mortgage is drawn to cover advances up to \$400,000.00.

The mortgage dated November 28, 1894, to United Guardian Company, Limited, was given to secure United Guardian Company for moneys advanced for bond interest and other expenses.

Following is a balance sheet of Fresno Canal and Irrigation Company as of October 31, 1916, prepared by Price, Waterhouse & Company:

BALANCE SHEET.

As of October 31, 1916.

ASSETS.

Capital assets:

Rights and franchises.....	8384,832 33
Canals and rights of way.....	1,311,688 38
Gould Canal:	
Purchase of stock and construction, etc.....	145,859 56
Fresno reservoir.....	3,939 41
Tenders' houses.....	9,018 06
Lands.....	12,300 00
Office furniture and fixtures.....	2,933 90

\$1,870,571 64

Investments:

Laguna Lands, Limited:

26,632 shares of capital stock 1¢ each at \$.47....	\$129,698 82
Mortgage debentures.....	152,332 50
Current account.....	42,293 90

324,325 22

Current assets:

Notes receivable.....		\$9,461 65	
Accounts receivable.....	\$103,115 82		
Less doubtful accounts.....	16,361 75	86,754 07	
Cash in bank.....		5,723 96	
			\$101,939 68

Deferred charges:

October, 1916, operating expenses.....	\$5,528 62		
Prepaid taxes.....	2,308 66		
			7,837 28
			\$2,304,673 82

LIABILITIES.

Capital stock:

12,500 shares of \$100.00 each.....		\$1,250,000 00	
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Funded debt:

First mortgage 5 per cent bonds.....		1,000,000 00	
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Mortgages:

United Guardian Company, Ltd., 6½ per cent.....	\$52,069 99		
Nares & Laton, Trustees, 5 per cent.....	521,792 16		
		573,862 15	

Accounts and taxes payable.....		4,443 87	
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Deficit:

Per balance sheet, September 30, 1916.....	\$521,538 46		
Add: subsequent expenditures applicable thereto.....	2,093 74		
		523,632 20	
			\$2,304,673 82

Following is a comparative earnings statement of Fresno Canal and Irrigation Company, prepared by Price, Waterhouse & Company, for the five years ending September 30, 1916:

**Fresno Canal and Irrigation Company. Comparative Profit and Loss Accounts,
Five Years Ending September 30, 1916.**

	1912	1913	1914	1915	1916
Income--					
Water rents	\$118,973 74	\$121,280 67	\$123,658 27	\$124,349 34	\$125,933 27
Land revenue	112 00		100 00		
	\$119,085 74	\$121,280 67	\$123,758 27	\$124,349 34	\$125,933 27
Expenses—					
Maintenance	\$32,894 43	\$34,242 91	\$41,339 18	\$43,108 55	\$46,914 60
Legal expense	4,486 70	5,712 37	4,781 17	9,607 44	6,214 20
General expense	4,975 96	9,057 14	2,611 33	6,664 01	8,562 14
Taxes	6,191 64	6,935 56	6,301 35	6,547 76	6,695 76
Office expense	1,482 00	1,788 33	2,321 91	2,512 82	1,997 93
Laguna maintenance..	5,095 80	8,600 12	7,124 23	5,012 79	5,162 32
Rebates	363 50	383 55	318 75	265 60	
Rent Gould Canal.....	1,500 00	1,500 00	1,500 00	1,500 00	
Exchange	448 60	400 02	190 85	*46 74	*369 48
	\$57,438 63	\$68,620 00	\$66,488 77	\$75,172 23	\$76,677 47
Net operating revenue available for interest, etc.	\$61,647 11	\$52,660 67	\$57,269 50	\$49,177 11	\$49,255 80

*Deficit.

Fresno Canal and Land Corporation was incorporated on January 5, 1917, with a total authorized capital stock of the par value of \$1,000,000.00, divided into 10,000 shares of the par value of \$100.00 per share. The entire authorized capital stock is to be issued by Fresno Canal and Land Corporation in exchange for the properties to be conveyed to it by Fresno Canal and Land Company. Fresno Canal and Land Corporation proposes to mortgage its properties and to issue \$600,000.00 face value of bonds, this indebtedness to be substituted for the present total mortgage indebtedness of \$1,573,862.15. The balance of the indebtedness, it is represented by petitioners, will be paid off by the stockholders of Fresno Canal and Land Company. Petitioners report having made an arrangement for the sale of these bonds at 90 per cent of their face value and accrued interest.

Fresno Canal and Land Corporation has submitted as Petitioners' Exhibit No. 6, a copy of its proposed mortgage or deed of trust, dated February 1, 1917. This deed of trust mortgages all property now owned or hereafter acquired to First Federal Trust Company of San Francisco, trustee, as security for a total authorized issue of \$1,000,000.00 face value of first mortgage gold bonds, said bonds to be payable February 1, 1927, to bear interest at 5 per cent per annum and to be callable upon sixty days notice at 102 per cent of their face value plus accrued interest. Bonds are to be issued in denominations of \$500.00 and \$1,000.00. Six hundred thousand dollars face value of these bonds are to be issued as and when \$1,000,000.00 face value of 5 per cent bonds of Fresno Canal and Irrigation Company, dated May 15, 1891, are delivered to the trustee, or its order, for cancellation. Four hundred thousand dollars face value of these bonds are to be issued from time to time provided the company's net income during the twelve months next preceding shall be at least $1\frac{1}{4}$ times the interest on all bonds outstanding and applied for, and provided further that the amount of bonds outstanding and those proposed to be issued shall not exceed 60 per cent of the appraised value of the company's properties, as found by the Railroad Commission of the State of California at or within one year prior to the date when said additional bonds are issued.

A sinking fund for the redemption of bonds is provided for as follows:

February 1, 1918, to February 1, 1922, inclusive, \$12,000.00 per annum.

February 1, 1923, and each year thereafter, all net revenues for twelve months preceding, over and above the amount necessary to pay bond interest, up to \$50,000.00, said payment in no case to be less than \$20,000.00 per annum.

In event of default, as the same is defined in the indenture, 25 per cent in interest of the outstanding bonds may require the trustee to declare the principal of the bonds due. The holders of 25 per cent in interest of the outstanding bonds may further require the trustee to take all needful steps for the protection of the bondholders, and to exercise the right of entry or sale, or to take judicial proceedings as the trustee shall deem most expedient.

At the public hearing herein, petitioners presented as Petitioners' Exhibit No. 1, a valuation of the properties of Fresno Canal and Land Company not including any interest in the Laguna de Tache lands, prepared by I. Teilman, chief engineer of said company. This valuation purports to show a total reproduction cost new as of March 1, 1916, of \$4,806,382.78, of which amount \$3,000,000.00 represents the value assigned by petitioners to water rights. Petitioners expressly stated at the hearing that no claim is made herein for the value of water rights.

The testimony shows that the first water rights were acquired by Fresno Canal and Irrigation Company in the early '70s by buying two small canals known as the Sween and Centerville ditches, each of which carried approximately 50 cubic feet of water per second. These canals were paid for in water rights giving free water to the lands which these ditches were then irrigating or could irrigate.

Some time thereafter, Fresno Canal and Irrigation Company filed notices of appropriation upon an amount of water somewhat in excess of 1,000 cubic feet of additional water of the Kings River. This appropriation gave rise to a number of law suits with the then owners of the Laguna de Tache grant and in the early '80s a permanent injunction was secured by said owners restricting the Fresno Canal and Irrigation Company to the 100 cubic feet of water per second carried by the Sween and Centerville ditches.

In order to secure additional water it became necessary for Fresno Canal and Irrigation Company to purchase the Laguna de Tache grant of 64,000 acres, in 1894. The total purchase price amounted to approximately \$1,150,000.00, of which sum \$850,000.00 was paid by Fresno Canal and Irrigation Company from the proceeds of the sale of \$1,000,000.00 face value of its first mortgage bonds. The balance of the purchase price, which with commissions amounted to approximately \$322,000.00, was covered by a mortgage known as the Clarke mortgage.

In the year 1899, Fresno Canal and Irrigation Company began selling the lands of the Laguna de Tache grant. In all, about 5,209.59 acres were sold in this manner for a consideration of \$199,703.95. Of this amount, \$131,881.90 was paid on account of mortgage taxes, interest and principal on the Clarke mortgage. The company found

difficulty in selling these lands, because of the mortgage resting upon the property, and accordingly made an arrangement for the formation of a corporation to be known as Laguna Lands, Limited, which corporation, it was proposed, should purchase the lands free from the lien of the mortgage.

In the mean time, United Guardian Company, Limited, had secured an interest in the Laguna lands by reason of advances made for payment of bond interest. The sale of the Laguna lands to Laguna Lands, Limited, was made by Fresno Canal and Irrigation Company and United Guardian Company, under an agreement dated December 18, 1912, under which Laguna Lands, Limited, paid for the property in capital stock of the par value of \$250,000.00 and debentures of the face value of \$1,000,000.00 issued approximately as follows:

To Fresno Canal and Irrigation Company-----	\$1,080,831 00
To United Guardian Company, Limited-----	169,169 00
	<hr/>
	\$1,250,000 00

At the present time, Fresno Canal and Land Company's interest in Laguna Lands, Limited, is as follows:

26,632 shares of stock (at \$4.87 each)-----	\$129,698 82
Mortgage debentures-----	152,332 50
Current accounts-----	42,293 90
	<hr/>
	\$324,325 22

From the testimony herein, it appears that the cost to Fresno Canal and Land Company of its water rights is made up primarily of—

1. The amounts paid for the Sween and Centerville ditches.
2. The difference between the amount paid for the Laguna de Tache lands and the amount received from the sales thereof.
3. The sums expended in protecting said water rights through litigation.

The sum claimed by petitioners for rights of way, as shown in Petitioners' Exhibit No. 1, totals \$450,764.95. The testimony shows that in practically all cases these rights of way are owned merely as easements. Petitioners have appraised them, however, at the market value of adjoining lands.

I also wish to call attention to an item of \$291,920.97 which appears in petitioners' valuation under the heading "Interest during construction, engineering contingencies, organization and legal expenses." At the hearing, Mr. Teilman explained that this figure was arrived at by taking a uniform percentage of 20 per cent and applying it to all the items of property, with the exception of a small amount of real estate. At the request of the Railroad Commission, petitioners have filed a

segregation showing the manner in which the item of \$291,920.97 was arrived at. The explanation, as given by petitioners, is as follows:

Interest during construction, assuming time to be 2 years and half of money to be available the first year only, 9 per cent on \$1,459,904.00 -----	\$131,364 00
Engineering and superintendence 8 per cent -----	116,768 00
Organization and legal expenses 3 per cent -----	43,788 00
	<hr/>
	\$291,920 00

At the hearing, petitioners also presented as Petitioners' Exhibit No. 2 a valuation report, dated November 9, 1916, made by Louis C. Hill of Quinton, Code & Hill, Los Angeles, to the Blankenhorn-Hunter Company of Pasadena. This report purports to show a total value of the physical properties of Fresno Canal and Irrigation Company of \$1,458,901.65. As Mr. Hill was not present at the hearing, the Railroad Commission had no opportunity to examine into the manner in which this report was prepared. The commission is, therefore, unable to state what weight should be attached to the figures arrived at by Mr. Hill.

The corporate life of Fresno Canal and Irrigation Company, as provided by its original articles of incorporation, will expire in February, 1921. It was originally intended to take care of the refinancing of these properties through an issue of bonds by Fresno Canal and Land Company. An application was made to the Railroad Commission for the necessary authority (Application No. 2636). Thereafter Fresno Canal and Land Company decided that, in view of the provisions of section 7 of article 12 of the constitution of California, providing in part that the franchise or charter of any quasi-public corporation shall not be extended, it would be necessary to convey its property to a new corporation. Fresno Canal and Land Corporation was accordingly incorporated for this purpose. The present application was thereafter filed with the commission and Application No. 2636 was dismissed at the request of petitioner. (Decision No. 4038.)

As pointed out in Decision No. 3320, made on May 10, 1916, in the application of San Jose Water Company for an order authorizing the conveyance of its property to San Jose Water Works (Application No. 2176), the State of California has wisely reserved to itself the power to review at stated periods the relationship between each public utility corporation and the public and to impose such conditions on the transfer of a public utility corporation's properties and franchises as the accumulated experience of years might show to be wise and necessary. In the present proceeding, I am of the opinion that the convenience of the public will be served by allowing Fresno Canal and

Land Company to convey its property to Fresno Canal and Land Corporation and by allowing the latter company to issue securities as applied for, subject to the conditions specified in the order herein.

Fresno Canal and Land Company claims that it owns no franchises apart from its franchise to be a corporation. Fresno Canal and Land Corporation should enter into a stipulation agreeing to undertake all liabilities and obligations now resting upon Fresno Canal and Land Company. The filing of such stipulation will be made a condition precedent to the transfer of any properties in this proceeding.

The net result of the granting of this application, in so far as the amount of outstanding securities is concerned, will be to reduce the amount of capital stock outstanding from \$1,250,000.00 to \$1,000,000.00, par value, and the mortgage indebtedness from \$1,573,862.15 to \$600,000.00.

After a consideration of the evidence presented by petitioners, I submit the following form of order:

ORDER.

Fresno Canal and Land Company and Fresno Canal and Land Corporation having applied to the Railroad Commission for an order authorizing Fresno Canal and Land Company to convey its property to Fresno Canal and Land Corporation for the consideration specified in the opinion which precedes this order, and for an order authorizing Fresno Canal and Land Corporation to issue 10,000 shares of its capital stock, at par, in payment for said property and to issue \$600,000.00 face value of its bonds at 90 per cent of their face value and accrued interest to be used in retiring *pro tanto* the first mortgage bonds of Fresno Canal and Land Company, and a public hearing having been held on said application and the Railroad Commission finding that the purposes for which the proceeds of the stock and bonds to be issued by Fresno Canal and Land Corporation will be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. Fresno Canal and Land Company is hereby authorized to convey to Fresno Canal and Land Corporation, in consideration for the issue by Fresno Canal and Land Corporation to Fresno Canal and Land Company of the capital stock of Fresno Canal and Land Corporation of the par value of \$1,000,000.00, the entire property of Fresno Canal and Land Company except its right to be a corporation and its interest in the capital stock and mortgage debentures of Laguna Lands, Limited, the real property to be conveyed being described in Exhibit "A" which is attached to this order and made a part hereof.

2. Fresno Canal and Land Corporation is hereby authorized to issue to Fresno Canal and Land Company 10,000 shares of its capital stock of the par value of \$100.00 per share in payment for the properties

herein authorized to be conveyed to Fresno Canal and Land Corporation by Fresno Canal and Land Company.

3. Fresno Canal and Land Corporation is hereby authorized to execute a mortgage or deed of trust upon its properties substantially in the form of a mortgage or deed of trust filed in this proceeding on January 19, 1917, as Petitioners' Exhibit No. 6, and to issue \$600,000.00 face value of bonds thereunder at not less than 90 per cent of their face value and accrued interest, the proceeds from the sale of said bonds to be used to discharge *pro tanto* the first mortgage bonds of Fresno Canal and Land Company now outstanding.

The authority herein given is granted upon the following conditions and not otherwise, to wit:

(a) Fresno Canal and Land Corporation shall take the property to be conveyed to it by Fresno Canal and Land Company, free and clear of all indebtedness, and Fresno Canal and Land Company shall not execute and deliver its deed of conveyance to Fresno Canal and Land Corporation until all such indebtedness has been paid or released.

(b) The authority herein given to Fresno Canal and Land Company to convey its property to Fresno Canal and Land Corporation shall not become effective until Fresno Canal and Land Corporation shall have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing that Fresno Canal and Land Corporation, its successors and assigns, will assume all the liabilities and obligations of Fresno Canal and Land Company, and shall have secured from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

(c) The authority herein given to Fresno Canal and Land Corporation to issue bonds shall not become effective until the Fresno Canal and Land Corporation shall have secured from the Railroad Commission a supplemental order herein reciting that a proposed deed of trust or mortgage in form satisfactory to the Railroad Commission has been filed herein.

(d) Fresno Canal and Land Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds and stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(c) Within thirty days from the execution of the deed of conveyance from Fresno Canal and Land Company to Fresno Canal and Land Corporation, Fresno Canal and Land Corporation shall file with the Railroad Commission a certified copy thereof.

(f) The authority herein granted to Fresno Canal and Land Corporation to issue bonds is conditioned upon the payment by Fresno Canal and Land Corporation of the fee prescribed by the Public Utilities Act.

(g) The authority herein given to Fresno Canal and Land Company to convey its property to Fresno Canal and Land Corporation and to Fresno Canal and Land Corporation to issue stock and bonds shall apply only to such conveyance and to such issue of stock and bonds, as shall have been made on or before November 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of February, 1917.

EXHIBIT A.

1. All those tracts and parcels of land lying and being in the County of Fresno, State of California, and described as follows, to wit:

(a) Commencing at a point at the intersection of the north line of section one (1), township fifteen (15) south, range nineteen (19) east, Mount Diablo base and meridian, and the center line of the west canal bank running north and south through the center of the northeast quarter of the northeast quarter of said section; thence running south 208 feet; thence running west 208 feet; thence running north 208 feet, thence running east 208 feet to the point of beginning and containing one (1) acre of land.

(b) Commencing at the northeast corner of section twenty-nine (29), township twelve (12) south, range twenty-one (21) east, Mount Diablo base and meridian, and running thence south 191 feet to a point on the east boundary of said section; thence south 47 degrees west 386 feet to a point; thence north 34 degrees west 540 feet to the north boundary line of said section; thence running east 580 feet along said boundary line to point of beginning, containing 3.62 acres.

(c) All of the land on lot two (2) of the Salinger Tract, lying north of and adjoining the main canal, said land being a tapering strip of land lying and being alongside the entire north line of said lot and between said north line and said main canal and having an approximate width of 48 feet at the westerly end and an approximate width of 22 feet on the easterly end of said strip, containing one (1) acre, more or less.

(d) Beginning at the center of section seven (7) in township thirteen (13) south of range nineteen (19) east, Mount Diablo base and meridian, thence running east along the center line of said section a distance of 1500 feet, running thence north to the south line of the county road; running thence west and northwesterly along the south line of said county road to the center line of said section, thence running south 30 feet to point of beginning, containing two (2) acres of land.

(e) All of the southeast quarter (SE $\frac{1}{4}$) of section seven (7), township thirteen (13) south, range nineteen (19) east, Mount Diablo base and meridian, lying north of Herndon Canal, containing one-quarter ($\frac{1}{4}$) acre, more or less.

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(f) Commencing at a point on the section line between sections twenty-two (22) and twenty-three (23) in township seventeen (17) south, range twenty-one (21) east, Mount Diablo base and meridian, from which the one-quarter corner common to said section bears north 1000 feet; thence south 54 degrees, 45 minutes east, 160 feet; thence south 77 degrees, 30 minutes east, 150 feet; thence south 81 degrees, 45 minutes east, 370 feet; thence south 68 degrees, 5 minutes east, 200 feet; thence north 30 degrees, 40 minutes east, 200 feet; thence north 48 degrees, 45 minutes east, 520 feet; thence south 390.3 feet to the center of county road on south bank of Cole Slough; thence following center of road south 50 degrees, 35 minutes west, 1073 feet; thence following center of road north 54 degrees, 47 minutes west, 1090 feet; thence following center of road north 32 degrees, 45 minutes west, 300 feet; thence following center of road north 89 degrees, 48 minutes west, 436.4 feet; thence north 30 feet to the north line of road; thence south 89 degrees, 48 minutes east, 400 feet; thence north 75 feet; thence north 45 degrees, 00 minutes east, 100 feet; thence south 71 degrees, 00 minutes east, 182 feet; thence south 57 degrees, 15 minutes east, 180 feet; thence south 39 degrees, 15 minutes east, 70 feet; thence south 74 degrees, 20 minutes east, 158 feet to the point of beginning, containing nineteen (19) acres, more or less.

(g) Beginning 13.50 chains north, 41 degrees east of the meander corner 36 chains west of the southeast corner of said section twenty-four (24), township thirteen (13) south, range twenty-three (23) east, M. D. B. and M., thence along the meander line north 41 degrees east, 20.50 chains; thence north 47½ degrees east, 8 chains; thence north 11 degrees east, 8 chains; thence north 4 degrees east, 19.50 chains; thence north 65 degrees east, 5.60 chains to east line of said section 24; thence north 1.00 chain, thence west 7.00 chains; thence south 38½ degrees, 21.90 chains; thence south 13 degrees west, 17.00 chains; thence south 23¾ degrees west, 17.60 chains, thence south 66½ degrees east, 4.50 chains to point of beginning, containing fifty-five (55) acres, more or less.

(h) Lots numbered eight (8) to fifteen (15), both inclusive, and fractional lots numbered sixteen (16) to eighteen (18), both inclusive, in block fourteen (14) of Central Addition to Fresno according to map of said Central Addition on file in the office of the County Recorder of said Fresno County.

2. Also, the following described canals and ditches owned, enjoyed and used by the Corporation in the distribution of water for irrigation and other purposes, to wit:

Fresno Canal Heading.

Beginning at a point on the north bank of Kings River, which point is near the east line of the NW ¼ of the NW ¼ of section 35, township 13 south, range 23 east, M. D. B. & M.; thence in a general westerly direction 12.1 miles to Limbaugh Gate, which gate is near the center of section 31, township 13 south, range 22 east, M. D. B. & M.

Lone Tree Channel.

Beginning at a point in the south bank of Fresno Canal, which point is near the center of section 32, township 13 south, range 23 east, M. D. B. & M., and running thence in a general southwesterly direction 8.04 miles to a point in section 26, township 14 south, range 22 east, M. D. B. & M., near the north line thereof.

Highland Canal.

Beginning at the end of Lone Tree Channel near the north line of section 26, township 14 south, range 22 east, M. D. B. & M., and running thence in a south-easterly direction 5.40 miles to a point in the east line of the west half of section 7, township 15 south, range 23 east, M. D. B. & M.

McCall Canal.

Beginning at the end of Lone Tree Channel near the north line of section 26, township 14 south, range 22 east, M. D. B. & M., and running thence in a south-westerly direction 4.64 miles to a point in the south line of section 17, township 15 south, range 22 east, M. D. B. & M.

Mill Ditch.

Beginning at the end of Fresno Canal heading near the center of section 31, township 13 south, range 22 east, M. D. B. & M., and running thence in a general westerly direction 7.86 miles to a point known as Barton Corner, which is near the quarter corner common to sections 26 and 35, township 13 south, range 20 east, M. D. B. & M.

Herndon Canal.

Beginning at the end of Mill Ditch near the quarter corner common to sections 26 and 35, township 13 south, range 20 east, M. D. B. & M., and running thence in a general northwesterly direction 24.90 miles to the quarter corner common to sections 17 and 20, township 13 south, range 17 east, M. D. B. & M.

Victoria Canal.

Beginning at a point on the south bank of Herndon Canal, which point is near the center of the southwest quarter of section 18, township 13 south, range 20 east, M. D. B. & M., and running thence in a southwesterly direction 1.10 miles to near the center of section 24, township 13 south, range 19 east, M. D. B. & M.

Flume Ditch.

Beginning at a point in the north bank of Herndon Canal near the quarter corner common to sections 7 and 8, township 13 south, range 19 east, M. D. B. & M., and running thence in a general northwesterly direction 1.14 miles to the northeast corner of section 12, township 13 south, range 18 east, M. D. B. & M.

Kennedy Canal.

Beginning at a point in the south bank of Herndon Canal near the west quarter corner of section 7, township 13 south, range 19 east, M. D. B. & M., and running thence in a general southwesterly direction 3.03 miles to the northwest corner of the northeast quarter of the northwest quarter of section 25, township 13 south, range 18 east, M. D. B. & M.

Thompson Canal.

Beginning at a point in the south bank of Herndon Canal near the east quarter corner of section 10, township 13 south, range 18 east, M. D. B. & M., and running thence in a general southerly direction 5.15 miles to a point in the north bank of Houghton Canal, which point is near the center of section 3, township 14 south, range 18 east, M. D. B. & M.

Empire Canal.

Beginning at a point on the west bank of the Thompson Canal near the southeast corner of section 22, township 13 south, range 18 east, M. D. B. & M., and running thence in a general southwesterly direction 4.46 miles to a point in the north bank of Houghton Canal near the center of section 5, township 14 south, range 18 east, M. D. B. & M.

Herndon Wasteway.

Beginning at a point in the west bank of Herndon Canal near the center of section 9, township 13 south, range 18 east, M. D. B. & M., and running thence in a westerly direction 0.50 mile to the north bank of San Joaquin River near the quarter corner common to sections 8 and 9, township 13 south, range 18 east, M. D. B. & M.

Big Sandridge Ditch.

Beginning at a point in the south bank of Herndon Canal near the northeast corner of section 18, township 13 south, range 18 east, and running thence in a general southwesterly direction 7.05 miles to the northwest corner of the southwest quarter of the southeast quarter of section 29, township 13 south, range 17 east, M. D. B. & M.

Dry Creek Canal.

Beginning at the end of Mill Ditch near the quarter corner common to sections 26 and 35, township 13 south, range 20 east, M. D. B. & M., and running thence in a general southwesterly direction 19.62 miles to the southwest corner of section 33, township 14 south, range 18 east, M. D. B. & M.

Fanning Canal.

Beginning at a point in the south bank of Dry Creek Canal near the northeast corner of the northwest quarter of the southeast quarter of section 5, township 14 south, range 20 east, M. D. B. & M., and running thence in a general southwesterly direction 4.76 miles to Burleigh Pond in the northeast quarter of section 23, township 14 south, range 19 east, M. D. B. & M.

Houghton Canal.

Beginning at a point in the west bank of Dry Creek Canal near the northeast corner of the northwest quarter of the southeast quarter of section 5, township 14 south, range 20 east, M. D. B. & M., and running thence in a general westerly direction 15.74 miles to the center of section 2, township 14 south, range 17 east, M. D. B. & M.

Teilman Ditch.

Beginning at a point in the west bank of Houghton Canal near the east quarter corner of section 1, township 14 south, range 19 east, M. D. B. & M., and running thence in a general southwesterly direction 1.45 miles to the center of section 12, township 14 south, range 19 east, M. D. B. & M.

Mortensen Canal.

Beginning at a point in the west bank of Houghton Canal at a point near the east quarter corner of section 1, township 14 south, range 19 east, M. D. B. & M., and running thence in a general westerly direction 0.83 mile to a point near the south quarter corner of section 1, township 14 south, range 19 east, M. D. B. & M.

Thompson Extension Canal.

Beginning at a point in the south bank of Houghton Canal, near the quarter corner common to sections 2 and 3, township 14 south, range 18 east, M. D. B. & M., and running thence in a general southwesterly direction 4.20 miles to a point in the north bank of Dry Creek Canal near the southeast corner of section 21, township 14 south, range 18 east, M. D. B. & M.

Fancher Creek Canal.

Beginning at the end of Fresno Canal near the center of section 31, township 13 south, range 22 east, M. D. B. & M., and running thence in a general southwesterly direction 9.00 miles to a point near the center of section 17, township 14 south, range 21 east, M. D. B. & M.

Braley Canal.

Beginning at a point in the west bank of Fancher Creek Canal near the south line of section 8, township 14 south, range 21 east, M. D. B. & M., and running thence in a westerly direction 6.83 miles to a point in the north bank of Fanning Canal near the center of the northwest quarter of section 17, township 14 south, range 20 east, M. D. B. & M.

Central Canal.

Beginning at the end of Fancher Creek Canal near the center of section 17, township 14 south, range 21 east, M. D. B. & M., and running thence in a general southwesterly direction 11.84 miles to a point near the quarter corner common to sections 1 and 12, township 15 south, range 19 east, M. D. B. & M.

Fresno Colony Canal.

Beginning at a point in the north bank of Central Canal near the center of section 25, township 14 south, range 20 east, M. D. B. & M., and running thence in a general westerly direction 10.91 miles to a point in the north bank of Central Wasteway near the southwest corner of section 35, township 14 south, range 19 east, M. D. B. & M.

North Central Canal.

Beginning at a point in the north bank of Central Canal near the center of section 25, township 14 south, range 20 east, M. D. B. & M., and running thence in a general westerly direction 2.76 miles to the southeast corner of the northeast quarter of the northeast quarter of section 28, township 14 south, range 20 east, M. D. B. & M.

American Colony Canal.

Beginning at a point in the south bank of Central Canal near the northwest corner of section 36, township 14 south, range 20 east, M. D. B. & M., and running thence in a general southwesterly direction 3.62 miles to the southwest corner of the northwest quarter of the northwest quarter of section 4, township 15 south, range 20 east, M. D. B. & M.

Central Wasteway.

Beginning at a point in the west bank of Central Canal near the southeast corner of section 36, township 14 south, range 19 east, M. D. B. & M., and running thence in a general westerly direction 10 miles to a point in the east bank of Dry Creek Canal near the southwest corner of section 28, township 14 south, range 18 east, M. D. B. & M.

East Perrin Colony Canal.

Beginning at the end of Central Canal near the quarter corner common to sections 1 and 12, township 15 south, range 19 east, M. D. B. & M., and running thence in a general southeasterly direction 0.76 mile to the northeast corner of the northwest quarter of the southeast quarter of section 12, township 13 south, range 20 east, M. D. B. & M.

West Perrin Colony Canal.

Beginning at the end of the Central Canal near the quarter corner common to sections 1 and 12, township 15 south, range 19 east, M. D. B. & M., and running thence in a general southwesterly direction 3.0 miles to the quarter corner common to sections 14 and 15, township 15 south, range 19 east, M. D. B. & M.

Washington Canal.

Beginning at the end of Fancher Creek Canal near the center of section 17, township 14 south, range 21 east, M. D. B. & M., and running thence in a general southwesterly direction 3.68 miles to a point near the center of section 31, township 14 south, range 21 east, M. D. B. & M.

Olcander Canal.

Beginning at the end of Washington Canal near the center of section 31, township 14 south, range 21 east, M. D. B. & M., and running thence in a general southwesterly direction 1.19 miles to the east end of flume near the east quarter corner of section 1, township 15 south, range 20 east, M. D. B. & M.

Washington Colony Canal.

Beginning at the end of Washington Canal near the center of section 31, township 14 south, range 21 east, M. D. B. & M., and running thence in a general southwesterly direction 2.34 miles to a division point near the center of the southeast quarter of section 2, township 15 south, range 20 east, M. D. B. & M.

Gould Canal.

Beginning at a point in the south bank of Kings River near the southwest corner of section 24, township 13 south, range 23 east, M. D. B. & M., and running thence in a general westerly direction 24.16 miles to a point in the north bank of Herndon Canal near the center of the southeast quarter of section 21, township 13 south, range 20 east, M. D. B. & M.

Enterprise Canal.

Beginning at a point in the north bank of Gould Canal in the southwest quarter of section 27, township 13 south, range 23 east, M. D. B. & M., and running thence in a general westerly direction 36.46 miles to a point in the south bank of Herndon Canal in the northwest quarter of section 20, township 13 south, range 20 east, M. D. B. & M.

Jefferson Canal.

Beginning at a point in the south bank of Enterprise Canal, near the center of section 12, township 13 south, range 21 east, M. D. B. & M., and running thence in a general southwesterly direction 2.61 miles to a point near the center of section 15, township 13 south, range 21 east, M. D. B. & M.

Hansen Canal.

Beginning at a point in the south bank of Gould Canal in the northwest quarter of section 32, township 13 south, range 23 east, M. D. B. & M., and running thence in a general southwesterly direction 4.44 miles to a point near the south line of section 3, township 14 south, range 22 east, M. D. B. & M.

Helm Canal.

Beginning at a point in the north bank of Gould Canal near the northeast corner of section 21, township 13 south, range 21 east, M. D. B. & M., and running thence in a general northwesterly direction 7.38 miles to a point in the east bank of Enterprise Canal near the south quarter corner of section 34, township 12 south, range 20 east, M. D. B. & M.

Sicing Canal.

Beginning at a point in the west bank of Fowler Switch Canal at the south line of section 16, township 14 south, range 22 east, M. D. B. & M., and running thence in a general westerly direction 4.18 miles to a point in the east bank of Briggs Ditch in the southeast quarter of section 14, township 14 south, range 21 east, M. D. B. & M.

*Grant Canals.**Santa Fe Canal.*

Beginning at a point in the north bank of Murphy Slough near the quarter corner common to sections 22 and 23, township 17 south, range 21 east, M. D. B. & M., and running thence in a general northwesterly direction 2.54 miles to a point in the west half of section 16, township 17 south, range 21 east, M. D. B. & M.

"A" Canal.

Beginning at a point in the west bank of Teilman Cut near the east line of section 22, township 17 south, range 21 east, M. D. B. & M., and running thence in a general westerly direction 3.13 miles to a point in the east bank of "B" Canal, lot 27, section 20, township 17 south, range 21 east, M. D. B. & M.

Main Grant Canal.

Beginning at a point in the west bank of Teilman Cut near the east line of section 22, township 17 south, range 21 east, M. D. B. & M., and running thence in a general westerly direction 5.75 miles to a point near the northeast corner of lot 26, section 25, township 17 south, range 20 east, M. D. B. & M.

"B" Canal.

Beginning at a point in the north bank of Grant Canal on lot 16, section 29, township 17 south, range 21 east, M. D. B. & M., and running thence in a north-westerly direction 7.56 miles to a point in lot 2, section 16, township 17 south, range 20 east, M. D. B. & M.

"B 2" Canal.

Beginning at a point on the west bank of "B" Canal on lot 10, section 29, township 17 south, range 21 east, M. D. B. & M., and running thence in a westerly direction 3.07 miles to a point in the west line of lot 1, section 26, township 17 south, range 20 east, M. D. B. & M.

"O" Canal.

Beginning at the end of Grant Canal near the northeast corner of lot 26, section 25, township 17 south, range 20 east, M. D. B. & M., and running thence in a general westerly direction 6.02 miles to a point in the east bank of Burrel Canal near the southeast corner of section 19, township 17 south, range 20 east, M. D. B. & M.

"F" Canal.

Beginning at a point in the north bank of C Canal on lot 26, township 17 south, range 20 east, M. D. B. & M., and running thence in a general northwesterly direction 2.86 miles to a point in the west bank of Turner Ditch in lot 9, section 20, township 17 south, range 20 east, M. D. B. & M.

"E" Canal.

Beginning at the end of Grant Canal near the northeast corner of lot 26, section 25, township 17 south, range 20 east, M. D. B. & M., and running thence in a general southwesterly direction 11.50 miles to a point near the southeast corner of section 34, township 17 south, range 19 east, M. D. B. & M.

Siphon Canal.

Beginning at a point in the south bank of E Canal on the west line of lot 5, section 2, township 18 south, range 20 east, M. D. B. & M., and running thence in a general southwesterly direction 1.59 miles to a point at the south end of siphon across Zalda Canal on head of Island Canal near the northeast corner of lot 4, section 10, township 18 south, range 20 east, M. D. B. & M.

"E" Wasteway.

Beginning at a point in the south bank of E Canal near the north line of lot 17, section 36, township 17 south, range 19 east, M. D. B. & M., and running thence in a general southwesterly direction 2.31 miles to a point at the south end of a gate constructed through the Reclamation Levee near the southeast corner of lot 1, section 11, township 18 south, range 19 east, M. D. B. & M.

North Island Canal.

Beginning at the end of Siphon Canal which is the south bank of Zalda Canal near the northeast corner of lot 4, section 10, township 18 south, range 20 east, M. D. B. & M., and running thence in a general southwesterly direction 9.83 miles to a point at the west end of a gate constructed through Reclamation Levee near the east line of lot 10, section 27, township 18 south, range 19 east, M. D. B. & M.

South Island Canal.

Beginning at a point in the south bank of North Island Canal near the south line of lot 4, section 10, township 18 south, range 19 east, M. D. B. & M., and running thence in a general southwesterly direction 4.06 miles to a point on the east bank of North Island Canal on lot 15, section 18, township 18 south, range 20 east, M. D. B. & M.

One-half Interest in Cross Cut Canal.

Beginning at a point in the south bank of Fowler Switch Canal in the north half of section 3, township 16 south, range 21 east, M. D. B. & M., and running thence in a general southerly direction 5.36 miles to a point in the north bank of Murphy Slough near the southwest corner of lot 5, township 17 south, range 21 east, M. D. B. & M.

DECISION No. 4087.

IN THE MATTER OF THE APPLICATION OF DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF CERTAIN STOCK.

Application No. 2073.

Decided February 7, 1917.

Applicant authorized to issue 272 shares of stock of the par value of \$100.00 per share, such stock to be sold at not less than par, proceeds to be used to meet sinking fund obligations on bonds heretofore authorized by the commission.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas this commission, on February 14, 1916, by its original order in the above entitled matter (Decision No. 3099, reported in Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 196) authorized applicant to sell at par 239 shares of its capital stock of the par value of \$100.00 per share for the purpose of retiring on March 1, 1916, fifty of its outstanding bonds of the face value of 100 pounds sterling each, as provided for in applicant's deed of trust securing its bond issue, and

Whereas the commission stated in its opinion in said Decision No. 3099, *supra*, "Applicant has asked for an order giving it authority to issue and sell in the future additional shares of its capital stock to take care of the sinking fund payments as above set forth, as such payments become due. We can not at this time grant such an order; but supplemental orders may be issued hereunder, granting applicant permission, from time to time, to sell its stock for the above mentioned purpose, without necessitating the filing of a new formal application or the holding of a formal hearing every year"; and

Whereas in accordance with the suggestion above quoted, applicant, on January 22, 1917, made a written request to this commission for authority to sell 292 shares of its capital stock at par for the purpose of retiring 60 of its outstanding bonds of the face value of 100 pounds sterling each, which according to the provisions in applicant's deed of trust above referred to must be retired by March 1, 1917; and

Whereas it will require \$29,220.00 to retire said sixty bonds on the basis of \$4.87 for each pound sterling, and there is in the sinking fund \$70.00, which together with the proceeds from the sale of said stock herein authorized would make a total available sum of \$29,270.00,

It is hereby ordered that Death Valley Railroad Company be, and the same is, hereby granted authority to sell 292 shares of its capital stock of the par value of \$100.00 per share.

The authority herein granted is granted subject to the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall be sold at not less than par to Borax Consolidated, Limited, of London, England.

2. The proceeds derived from the sale of said stock in conjunction with \$20.00 from the said sinking fund above referred to shall be used to retire 60 of applicant's outstanding bonds of the par value of 100 pounds sterling each, as provided in the deed of trust securing said bonds.

3. The authority herein granted shall apply to such stock as shall have been issued on or before October 31, 1917.

4. Death Valley Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month, applicant shall make a verified report to this commission, stating the sale or sales of the said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. All the provisions of this commission's order in the above entitled matter, dated February 14, 1916 (Decision No. 3099), shall remain in full force and effect except as modified or amended by this supplemental order.

Dated at San Francisco, California, this 7th day of February, 1917.

DECISION No. 4088.

IN THE MATTER OF THE APPLICATION OF HOLTON INTERURBAN RAILWAY COMPANY FOR PERMISSION TO LEASE TRACK OF SOUTHERN PACIFIC COMPANY, FROM EL CENTRO TO SEELEY, IMPERIAL COUNTY, CALIFORNIA, A DISTANCE OF 8.74 MILES.

Application No. 2385.

Decided February 7, 1917.

BY THE COMMISSION.

ORDER.

Applicant in the above entitled matter having on February 2, 1917, filed with the commission an application covering this same subject; and there appearing to be no reason why this application should not be dismissed,

It is hereby ordered that this application be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 7th day of February, 1917.

DECISION No. 4089.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO LEASE TO THE HOLTON INTERURBAN RAILWAY COMPANY THE TRACK FROM EL CENTRO TO SEELEY, IMPERIAL COUNTY, CALIFORNIA, A DISTANCE OF 8.74 MILES.

Application No. 2747.

Decided February 7, 1917.

BY THE COMMISSION.

ORDER.

This application having been filed with the commission on February 2, 1917, together with a copy of the lease mentioned therein; and there appearing to be no reason why this application should not be granted,

It is hereby ordered that Southern Pacific Company be and the same hereby is granted permission to lease to the Holton Interurban Railway Company the track from El Centro to Seeley, a distance of 8.74 miles, said track being more particularly described in the application and in the lease accompanying the same.

Dated at San Francisco, California, this 7th day of February, 1917.

DECISION No. 4090.

IN THE MATTER OF THE APPLICATION OF MOUNT JACKSON WATER
AND POWER COMPANY FOR PERMISSION TO ISSUE PROMISSORY
NOTE.

Application No. 2684.

Decided February 7, 1917.

Applicant granted permission to issue a promissory note in the sum of \$10,000.00, such note to be issued for a period of two years and bearing interest at the rate of 7 per cent per annum, for the purpose of retiring a note of a like face value.

A. *Lemberger*, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application for the authority of this commission to issue a promissory note in the gross sum of ten thousand (10,000) dollars in favor of T. C. Mellersh, same to be payable two years from the date of the making of said note and to bear interest at the rate of 7 per cent per annum, the principal sum payable on or before two years from said above mentioned date, with the privilege of paying the same in installments at the option of the maker—the applicant herein.

The application was heard before Examiner Encell on January 26, 1917, at San Francisco.

The authorization sought herein is for the purpose of renewing certain outstanding notes of the applicant corporation, which notes have been issued from time to time, and aggregating, as set forth in the petition, the gross sum of \$10,772.25. These notes have been issued for the purpose of covering certain advances made in the main by Mr. T. C. Mellersh in behalf of the corporation for betterments and improvements. Small amounts have, however, in one or two instances, been advanced by him for operating expenses when the revenues of the company did not equal the operating expenses.

In the latter part of 1913 the applicant herein filed a petition for authority to issue \$11,000.00 of bonds for the purpose of refunding its then existing indebtedness and making certain improvements. The commission in its opinion expressed the belief that the property was not of a type upon which bonds should be issued to be distributed broadcast to the public but rather it was of the sort upon which short term promissory notes might be issued until it had sufficiently refinanced itself or enlarged itself to make it a proper basis for a bond issue. It was also found that certain new improvements should be installed.

The matter was taken up by the commission with Mr. T. C. Mellersh, the principal stockholder of the corporation, and the commission suggested that he should continue to finance the company by advances from himself, taking notes for such advances as he made. In accordance with that direction, that policy has been pursued and under that policy the necessary improvements have been installed.

Permission in this proceeding is sought for the issuance of notes in the sum of \$10,000.00 to refund the notes given for actual betterments, the additional moneys (\$772.25) to be left in open account, this sum representing the amount of accrued interest on the notes, together with the deficit due to operation.

Since Mr. Mellersh is the owner of all the stock in the corporation, except qualifying shares held by his board of directors, is the sole creditor of the corporation and has proceeded to carry out the plan suggested by the commission, some unusual condition would of necessity have to intervene in order for the commission to withhold the authority sought. No such conditions exist. Another sufficient reason for granting the permission sought is that it was developed at the hearing by the hydraulic engineers of the commission that the physical structures of applicant have a value in excess of \$10,000.00 disregarding the intangibles, water rights, rights of way, et cetera.

We are of the opinion that the application should be granted.

ORDER.

Mount Jackson Water and Power Company having applied to this commission for authority to issue a promissory note in the gross sum of \$10,000.00 in favor of T. C. Mellersh, to be payable on or before two years from the date of the making of said note, the same to bear interest at the rate of 7 per cent per annum, with the privilege of paying the same in installments at the option of the maker thereof, and it appearing to this commission that applicant's request is reasonable and the purposes for which it is proposed to issue said note are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Mount Jackson Water and Power Company, a corporation, be, and it is hereby, authorized to issue a promissory note to T. C. Mellersh in the principal sum of \$10,000.00, bearing interest at the rate of 7 per cent per annum, said note being payable on or before two years from the date of the making thereof, with the privilege of payment in installments at the option of the maker thereof.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The proceeds from the note herein authorized to be issued shall be used for the following purpose and not otherwise:

(a) To retire the promissory notes in the sum of \$10,000.00 heretofore issued by applicant herein in favor of Mr. T. C. Mellersh.

2. Applicant shall report to this commission within thirty (30) days after the issue of the note herein authorized to be issued the name of the payee, the term of the note, the rate of interest, the face amount of such note and the application of the proceeds.

3. The authority herein granted to issue a note shall not become effective until the payment by applicant of the fee prescribed in the Public Utilities Act.

4. The authority herein granted shall apply only to such note as shall have been issued on or before the twenty-eighth day of February, 1917.

Dated at San Francisco, California, this 7th day of February, 1917.

DECISION No. 4091.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE No. 169 OF THE CITY OF SELMA.

Application No. 2709.

Decided February 7, 1917.

Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights obtained under a franchise secured from the City of Selma authorizing the maintenance and operation of a telephone system in said city, provided that a stipulation shall be filed to the effect that no value other than actual cost shall ever be claimed therefor.

Pillsbury, Madison & Sutro, and James T. Shaw, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by The Pacific Telephone and Telegraph Company requesting the Railroad Commission to make its order declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by Ordinance No. 169 of the city of Selma, Fresno County, on June 15, 1914.

A public hearing was held in San Francisco, January 20, 1917, the testimony being taken by Examiner Bancroft.

From the evidence it appears that prior to the month of May, 1914, the board of trustees of the city of Selma suggested to applicant that it procure a franchise for the maintenance and operation of its telephone plant in said city; that thereafter the company made an oral

application for such franchise and in compliance with said application, on June 15, 1914, the board of trustees of said city of Selma passed Ordinance No. 169, hereinafter more particularly described.

The ordinance grants to The Pacific Telephone and Telegraph Company, for the term of twenty-five years from the date of its passage, the right and privilege to do a general telephone and telegraph business within the city of Selma, and to place, erect, lay, maintain and operate in and under the streets, avenues, alleys, thoroughfares and public highways within said city, poles, wires and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes. It is provided that applicant, its successors and assigns, shall have the right to make all needful excavations in any of the streets or other public places above named in said city of Selma for the purpose of placing, erecting, laying and maintaining poles or other conductors for said wires, provided that all said work shall be done in compliance with the reasonable rules, regulations, ordinances or orders which may, during the continuance of said franchise, be adopted from time to time by the city of Selma.

The ordinance provides for the proper restoration and repairing of the streets after they may be disturbed by applicant and also contains provisions protecting the city's rights in regard to sewerage, grading, planking, paving, repairing, altering, or improving any of the streets or other public places within said city, and provides that the city of Selma shall have the right and privilege to place, where aerial construction exists, a fixture erected and maintained under the said franchise, to which may be attached wires, not exceeding four in number, and where underground conduits exist, applicant shall furnish said city with one duct in its underground system, or two pairs of wires in its underground cable, free of charge to said city, to be used for low tension police and fire alarm purposes.

The ordinance also contains a provision for the payment annually by said applicant to said city of 2 per cent of the gross receipts arising from the exercise of said franchise, subject to the provisions, however, that no percentage shall be paid for the first five years from and after the effective date of the ordinance.

The ordinance contains certain other provisions which need not be considered at this time.

It further appears that applicant for some years past has been operating a telephone exchange in said city of Selma, that it has at present 404 subscribers to said exchange, that there is no other telephone service or exchange operated in said territory and that applicant's failure to make the necessary application to this commission for a certificate of public convenience and necessity in connection with

said territory was due solely to the belief of applicant's officers that it was not necessary for it to obtain such authority.

We are of the opinion that the application should be granted, subject to the conditions contained in the following order:

ORDER.

The Pacific Telephone and Telegraph Company having filed the above entitled application, asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held upon said application, the Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges conferred by Ordinance No. 169 of the city of Selma, approved June 15, 1914, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, agreeing for itself, its successors and assigns that they will never claim before the Railroad Commission of the State of California or any other public authority any value for the rights and privileges conferred by said Ordinance No. 169 of the city of Selma in excess of the actual cost thereof to applicant, which cost shall be stated in said stipulation, and shall have secured from this commission a supplemental order herein declaring that such stipulation satisfactory to this commission has been filed.

Dated at San Francisco, California, this 7th day of February, 1917.

DECISION No. 4092.

IN THE MATTER OF THE APPLICATION OF COUNTY OF SAN JOAQUIN
TO OPEN ROAD IN TULARE ROAD DISTRICT ACROSS SOUTHERN
PACIFIC TRACKS AT GRADE.

Application No. 2731.

Decided February 8, 1917.

Applicant applies for permission to construct a crossing at grade across the tracks of Southern Pacific Company and it appearing that if a connecting road running along the easterly side of the railroad company's tracks is constructed it will divert considerable traffic which would otherwise use the proposed crossing, order made providing that permission for the construction of such crossing will be granted as soon as the connecting road is constructed.

Geo. D. Squires, for Southern Pacific Company.

James T. Ansbro and *James Y. Coates*, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing in this proceeding was held at Stockton, February 2, 1917, being conducted by Myron Westover, examiner.

This is a viewer's petition filed under section 2688 of the Political Code, asking authority to establish a public road crossing at grade over the tracks of Southern Pacific Company, which extend northwest and southwest across the southwest corner of section 6, township 3 south, range 6 east in San Joaquin County.

The surrounding country is open and practically level with no obstructions to the view near the point of crossing.

The proposed crossing is to be used in connection with a proposed new road two miles long extending from the junction of the Bird Road with the Vernalis Road, at the southwest corner of section 6, to the southeast corner of section 5 where it will join another proposed new road, for which the board has procured most of the right of way. The latter road extends south about 7 miles to the county line.

The board plans to later extend the two miles of new road an additional mile or more east to connect with what is known as the River Road, connecting San Joaquin City and Banta. The proposed road would thus become part of the principal east and west thoroughfare across this part of the valley to the hills on the west. The nearest east and west roads are respectively four miles north and two miles south of the crossing in question. The River Road practically parallels the railroad and is distant some two or three miles easterly from it. Both the Bird Road and the Vernalis Road are improved. The Bird Road leads from the section corner north four miles to a junction with the River Road at a point about a half mile east of Banta. About half of the travel northerly and northwesterly from the community in question is to and from Banta. The remainder of such travel is to and from Tracy. The Vernalis Road is used in the Tracy travel for a distance of two miles west of the section corner and in the Vernalis travel a distance of four miles south from the section corner.

The proposed road is designed to open up a territory of four or five square miles which is now without a public road. The proposed crossing, which is about 900 feet from the Bird Road crossing, is located at a private crossing where gates are maintained, making it necessary for many of those traveling to and from the territory in question to make a considerable detour.

Southern Pacific Company states that it has no objection to the crossing, other than its general objection to increasing the risks of travel through increasing the number of grade crossings. It suggested as an alternative a road along the easterly side of the company's right of

way about 900 feet long connecting the proposed road with the Bird Road, so that the present Bird Road crossing could be used. The objection to this is that the angle formed at the junction with the Bird Road would be less than 45 degrees, and would probably develop a dangerous situation, and a serious obstacle to traffic. The supervisors present expressed willingness to build such connecting road in addition, if the crossing in question is authorized.

If the connecting road is built, so that about half the travel of the vicinity would not need to use the proposed crossing, or cross the tracks at all, the public convenience served by the proposed crossing would more than offset the risks added by an additional crossing.

ORDER.

San Joaquin County having filed with the Railroad Commission an application for permission to construct a crossing of the tracks of the Southern Pacific Company, at grade, at a point near the southwest corner of section 6, township 3 south, range 6 east, in San Joaquin County; and a public hearing having been held,

It is hereby ordered that after San Joaquin County shall have constructed the road mentioned in the foregoing opinion as the connecting road, between the Bird Road and the proposed road, the commission will hereafter make its order granting permission for the crossing asked for herein to be constructed, subject to the usual conditions.

Dated at San Francisco, California, this 8th day of February, 1917.

DECISION No. 4093.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE BONDS OF THE FACE VALUE OF THREE HUNDRED THIRTY-EIGHT THOUSAND DOLLARS, AND PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

Application No. 2661.

Decided February 8, 1917.

Applicant authorized to issue its first mortgage 5 per cent bonds of the face value of \$334,000.00, such bonds to be sold at not less than 95, and \$219,000.00 par value of its preferred stock, such stock to be sold at not less than par, proceeds of both bonds and stock to be used for the purpose of discharging promissory notes and floating indebtedness.

1. When one public utility purchases the property of another utility paying therefor more than the actual value of the property acquired, the commission will not permit the entire purchase price to be capitalized by the purchasing company. The price paid in excess of the actual value should be charged to surplus and paid for by the stockholders in the form of diminished dividends.

Chickering & Gregory, by *Allen L. Chickering*, for Petitioner.

31-30639

THELEN, *Commissioner*.

OPINION.

The amended and supplemental petition herein asks authority on behalf of San Diego Consolidated Gas and Electric Company to issue first mortgage bonds of the face value of \$338,000.00 and preferred stock of the par value of \$225,000.00.

The financial affairs of petitioner have been reviewed by this commission in a number of decisions during the last few years. Reference is hereby made to such decisions and particularly to Decision No. 3839, made on November 3, 1916, in Application No. 1925, in which proceeding the Railroad Commission established all the rates to be charged by San Diego Consolidated Gas and Electric Company for both electricity and gas.

In Schedule No. 4, attached to the amended and supplemental petition herein, petitioner shows the amounts expended by it for capital purposes from January 1, 1909, to December 31, 1912, and from December 31, 1912, to December 31, 1916, together with the amount of first mortgage 5 per cent bonds which, under petitioner's deed of trust or mortgage, petitioner is entitled to issue as against such construction. The remaining bonds which petitioner is thus entitled to issue as against construction expenditures to December 31, 1916, is alleged by petitioner to be \$313,000.00. Said Schedule No. 4 is as follows:

Construction Expenditures of San Diego Consolidated Gas and Electric Company, January 1, 1909, to December 31, 1916.

January 1, 1909 to December 31, 1912.

Gas Department:

Real estate and buildings-----	\$68,377 76	
Gas plant -----	256,486 40	
Gas mains-----	505,931 75	
Gas services-----	201,198 47	
Gas meters-----	82,102 29	
Gas district governors-----	1,021 45	
		\$1,115,118 12

Electric Department:

Real estate and buildings-----	\$125,831 17	
Steam plant-----	342,304 99	
Electric plant-----	156,858 72	
Street lines and wires overhead-----	664,731 00	
Street lines and wires underground-----	193,551 69	
Arc light installation-----	*9,353 47	
Electric services-----	57,880 23	
Electric meters-----	137,578 11	
Transformers -----	151,696 02	
Hot salt water mains-----	4,863 92	
		1,825,942 38

General:

Office building -----	\$27,676 58	27,676 58
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Total January 1, 1909, to December 31, 1912----- \$2,968,737 08

*Deduction.

*December 31, 1912, to December 31, 1916.***Gas Department:**

Land devoted to gas operations	\$10,281 94	
Gas plant buildings and general structures.....	25,383 77	
Gas holders	118 47	
Gas generators.....	48,738 37	
Purification apparatus	47,900 91	
Miscellaneous gas plant equipment.....	400 45	
Water gas sets and accessories.....	15,654 34	
Accessory equipment at works.....	124,550 53	
Miscellaneous production equipment.....	139 55	
Transmission mains	92,046 81	
Transmission buildings and general structures..	9 85	
Boosting apparatus and regulators.....	11,070 33	
Miscellaneous transmission equipment.....	188 03	
Distribution mains.....	132,935 24	
Gas services	112,296 51	
Gas meters	69,483 37	
Gas regulators	14,152 76	
Installations on consumers premises.....	1,917 14	
Miscellaneous distribution equipment.....	1,865 92	
		<hr/>
		\$700,134 29

Electric Department:

Land devoted to electric operations.....	\$12,203 10	
Power plant buildings and general structures..	823 40	
Furnaces, boilers and accessories.....	59,547 98	
Steam power plant equipment	108,685 78	
Miscellaneous production equipment	2,206 10	
Poles and fixtures transmission	31,168 64	
Overhead system transmission	37,357 42	
Poles and fixtures distribution	217,752 22	
Overhead system distribution.....	173,867 62	
Underground conduits	49,598 93	
Substation buildings and general structures.....	946 14	
Substation equipment	42,743 01	
Miscellaneous equipment	2,946 61	
Line transformers and devices	165,940 89	
Electric service	43,692 26	
Electric meters	76,686 88	
Municipal street lighting system.....	74,327 17	
Commercial lamps and lamp equipment.....	195 85	
		<hr/>
		1,100,500 00

General:

General structures	\$49,285 43	
General store equipment	4,603 96	
Miscellaneous equipment	2,537 04	
Fixed capital in other departments	151 78	
		<hr/>
		56,578 21

Total December 31, 1912, to December 31, 1916	<hr/>	\$1,866,212 50
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Total January 1, 1909, to December 31, 1916	<hr/>	\$4,834,949 58
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Deducting additional amount to be expended as per trust deed section 3, article 1 -----	200,000 00
	<hr/>
	\$4,634,949 58
Deducting depreciation and renewal fund expended for construction -----	729,393 97
	<hr/>
	\$3,905,555 61
Bonds issued for construction purposes \$2,616,000.00 against which there has been expended -----	3,488,000 00
	<hr/>
Leaving balance of -----	\$417,555 61

Which at 75 per cent entitles company to issue \$313,000.00 in first mortgage 5 per cent bonds against construction expenditures to December 31, 1916.

Petitioner further represents that in addition to the expenditures referred to in the foregoing tabulation, petitioner, in 1916, acquired the property of Oceanside Electric and Gas Company, in the city of Oceanside, San Diego County, at a cost to petitioner of \$37,716.85. Petitioner asks authority to issue against said purchase price its first mortgage bonds of the face value of \$25,000.00, at 95 per cent of their face value and to issue against the balance of the purchase price its preferred stock, at par, amounting to \$13,966.85.

Referring to the proposed issue of preferred stock, petitioner represents that subsequent to March 31, 1912, petitioner has expended for construction, betterments and additions to its plant, system and equipment other than the purchase of the Oceanside property, the sum of \$2,553,774.13, for which amount petitioner has been reimbursed by the sale of securities as follows:

	Par value	Net sale proceeds
Bonds -----	\$1,091,000 00	\$982,555 00
Debentures -----	356,000 00	333,200 00
Preferred stock -----	144,000 00	144,000 00
Common stock -----	240,000 00	264,000 00
Totals -----	<hr/>	<hr/>
	\$1,831,000 00	\$1,723,755 00

By deducting the total net sale proceeds of \$1,723,755.00 from said total expenditure of \$2,553,774.13, there is left a balance of \$830,019.13, as to which petitioner alleges that it has been reimbursed from its depreciation reserve in the sum of \$331,199.20, from its surplus account in the sum of \$24,902.69, and by amortization of debt discount and expense in the sum of \$67,763.98, being a total of \$423,875.87. By deducting said items of reimbursement from said balance of \$830,019.13, petitioner alleges that there is remaining the sum of \$406,143.26 as to

which sum petitioner avers that it has not been reimbursed in any manner and which sum is said to be uncapitalized by the issue of securities. Petitioner further refers to the cost of the Oceanside property, being \$37,716.85 and to the additional sum of \$102,500.00 necessary to bring petitioner's working capital up to the amount allowed by the Railroad Commission in its said Decision No. 3839, thus making a total uncapitalized expenditure amounting to \$546,360.11. Petitioner estimates that it will receive from the sale of its bonds the sum of \$321,100.00, thus leaving a balance of \$225,260.11 uncapitalized, against which petitioner desires to issue its preferred stock.

Petitioner proposes to sell said bonds of the face value of \$338,000.00 at not less than 95 per cent of their face value, plus accrued interest, and said \$225,000.00, par value, of preferred stock at not less than par. Petitioner proposes to use the proceeds from the sale of said securities for the purpose of paying off and liquidating its floating indebtedness and promissory notes set forth in Schedule No. 1, attached to the amended and supplemental petition and also in the order herein.

In Decision No. 3380, made on May 26, 1916, in Application No. 2290, the Railroad Commission made its order authorizing San Diego Consolidated Gas and Electric Company to purchase the capital stock of Oceanside Electric and Gas Company. In Decision No. 3386, made on August 18, 1916, in Application No. 2365, the Railroad Commission authorized Oceanside Electric and Gas Company to sell its entire property to San Diego Consolidated Gas and Electric Company. San Diego Consolidated Gas and Electric Company reports that it paid for the Oceanside property the sum of \$37,716.85.

As appears in said Decision No. 3380, in said Application No. 2290, the estimated cost to reproduce new the physical property of Oceanside Electric and Gas Company as of May 19, 1916, was the sum of \$47,139.00, and the estimated cost to reproduce the property new less accrued depreciation, was the sum of \$28,467.00. The property concerning which these estimates were made includes property which will be of no service to San Diego Consolidated Gas and Electric Company and which said company will hereafter dispose of or abandon. One of the conditions in the order in said Decision No. 3380, assented to by San Diego Consolidated Gas and Electric Company, was that said company would never urge the purchase price of the capital stock of Oceanside Electric and Gas Company as representing the fair value of said capital stock. I am satisfied that the amount paid by San Diego Consolidated Gas and Electric Company for the Oceanside property is in excess of the fair value of the property. That securities should not be issued against such excess is, of course, elemental. The excess should be

charged against surplus, so that it is paid for by the stockholders of San Diego Consolidated Gas and Electric Company out of their pockets in the form of diminished dividends. Under such an arrangement there would be no prejudice either to the rate payers of San Diego Consolidated Gas and Electric Company or to the holders of its securities.

After careful consideration, I have reached the conclusion that as against the purchase price of the Oceanside property, San Diego Consolidated Gas and Electric Company may issue its first mortgage bonds of the face value of \$21,000.00 and its preferred stock of the par value of \$8,500.00, the balance of the purchase price to be charged against the surplus of San Diego Consolidated Gas and Electric Company.

In other respects I recommend that the application be granted as made. The result of the granting of the application will be that San Diego Consolidated Gas and Electric Company will have been completely reimbursed to December 31, 1916, for all expenditures for capital account incurred to said date. Hereafter, the company proposes to submit its proposed expenditures in advance, in so far as possible, thus materially facilitating the Railroad Commission's action on the company's applications to issue securities. This procedure should be adopted in so far as possible by all utilities which make application to the Railroad Commission, from time to time, for authority to issue securities against capital expenditures.

I submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for an order authorizing the issue of bonds and of preferred stock as indicated in the opinion which precedes this order, a public hearing having been held herein and this proceeding having been submitted and being ready for decision,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to issue its first mortgage 5 per cent bonds of the face value of \$334,000.00 and its preferred stock of the par value of \$219,000.00, on the following conditions and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall issue its said bonds at not less than ninety-five (95) per cent of their face value, plus accrued interest, and its said preferred stock at not less than par.

2. San Diego Consolidated Gas and Electric Company shall use the proceeds from the issue of said bonds and said preferred stock, in so far as said proceeds will go, for the purpose of paying the floating

indebtedness and promissory notes of San Diego Consolidated Gas and Electric Company as of December 31, 1916, as follows:

(1) Promissory note dated November 20, 1916, executed by San Diego Consolidated Gas and Electric Company favor H. K. Adams, payable May 20, 1917, with interest at the rate of 5 per cent per annum, principal -----	\$5,000 00
(2) Promissory note dated November 20, 1916, executed by San Diego Consolidated Gas and Electric Company favor H. K. Adams, payable May 20, 1917, with interest at the rate of 5 per cent per annum, principal -----	5,000 00
(3) Promissory note dated November 20, 1916, executed by San Diego Consolidated Gas and Electric Company favor First National Bank, Lisbon, North Dakota, payable May 20, 1917, with interest at the rate of 5 per cent per annum, principal -----	7,500 00
(4) Promissory note dated November 20, 1916, executed by San Diego Consolidated Gas and Electric Company favor First National Bank, McCook, Nebraska, payable May 20, 1917, with interest at the rate of 5 per cent per annum, principal -----	7,500 00
(5) Promissory note dated November 23, 1916, executed by San Diego Consolidated Gas and Electric Company favor Bank of Commerce and Trust Company, San Diego, California, payable May 23, 1917, with interest at the rate of 6 per cent per annum, principal -----	40,000 00
(6) Promissory note dated November 23, 1916, executed by San Diego Consolidated Gas and Electric Company favor Melville Klauber, payable on or before May 23, 1917, with interest at the rate of 6 per cent per annum, principal -----	10,000 00
(7) Promissory note dated November 23, 1916, executed by San Diego Consolidated Gas and Electric Company favor Klauber Wangenheim Company, San Diego, California, payable on or before May 23, 1917, with interest at the rate of 6 per cent per annum, principal -----	10,000 00
(8) Promissory note dated November 21, 1916, executed by San Diego Consolidated Gas and Electric Company favor The First National Bank of San Diego, California, payable May 21, 1917, with interest at the rate of 5 per cent per annum, principal -----	25,000 00
Total -----	\$110,000 00
(9) Accounts payable -----	123,602 88
(10) Due Standard Gas and Electric Company on open account -----	324,508 11
(11) Due H. M. Bylesby & Company on open account -----	7,408 71

3. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the bonds and preferred stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said bonds and preferred stock during the preceding month, the terms and conditions of sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority hereby given to issue bonds shall not become effective until San Diego Gas and Electric Company has paid the fee specified in the Public Utilities Act.

5. The authority hereby given to issue bonds and preferred stock shall apply only to bonds and preferred stock issued by San Diego Gas and Electric Company on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1917.

DECISION No. 4094.

CALIFORNIA CANNERIES COMPANY

vs.

SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, WESTERN PACIFIC RAILWAY COMPANY.

Case No. 876.

Decided February 8, 1917.

Complainant petitions the Railroad Commission to compel respondents to absorb switching charges of \$2.50 per car now assessed on shipments to and from their plant located on an industry spur of the Santa Fe Railway Company.

1. An industry located upon a siding or spur operated by an individual carrier is not in the same position as an industry located upon the lines of the State Belt Railroad or those owned by another carrier over which all carriers have the privilege of equal use.
2. The switching or terminal charges of a carrier have no connection with its main line haul charges. A determination of the reasonableness or unreasonableness of such charges must be made separate and distinct from any consideration of its line haul rates.
3. Terminal facilities owned by an individual carrier can not be used by competing carriers without the payment of reasonable switching charges and though such charges may be absorbed by the carriers, it is not reasonable to urge that the commission should require such absorption in one particular locality. Complaint dismissed.

Sauborn & Rochl, for California Canneries Company.

C. W. Durbrow, for Southern Pacific Company.

G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company.

Allan P. Matthew, for Western Pacific Railway and Receivers thereof.

DEVLIN, *Commissioner*.

OPINION.

The complainant in this proceeding is a corporation organized and existing under and by virtue of the laws of the State of California, and is engaged in the business of canning and packing fruits and

vegetables. Its place of business and factory are located in the city and county of San Francisco on an industry or private sidetrack connected with the tracks of and served by the Atchison, Topeka and Santa Fe Railway Company (Coast Lines).

The complaint attacks as unjust, unreasonable and discriminatory the tariff provisions of the defendants, Southern Pacific Company and Western Pacific Railway Company, hereinafter referred to as Southern Pacific and Western Pacific, respectively, whereby defendants refuse to absorb the charge of \$2.50 per car assessed by the Atchison, Topeka and Santa Fe Railway Company to cover switching service performed between the transfer track, on the one hand, and the complainant's factory, on the other, on shipments received from or destined to non-competitive points, thus subjecting complainant to undue prejudice and disadvantage in violation of the provisions of the constitution of the State of California and of the Public Utilities Act.

In explanation of its charge of discrimination complainant refers to the fact that the plant of its principal competitor, the California Fruit Cannery Association, is located on an industry track of the State Belt Railroad, and that under tariff provisions the Southern Pacific, Western Pacific and Atchison, Topeka and Santa Fe absorb the switching charge of \$2.50 per car assessed by the State Belt Railroad regardless of point of origin or destination.

Testimony of witness for complainant also developed the fact that there is maintained on Illinois street, in a so-called "neutral zone," within a few blocks of complainant's factory, an industrial track owned jointly by the Southern Pacific and Atchison, Topeka and Santa Fe, and that industries located on these joint tracks are not required to pay switching charges when the main line haul is performed by either of the two carriers. Complainant alleges further that this is likewise a discrimination for the free service given on the Illinois street tracks is no different and no more expensive than the switching service rendered to complainant's factory located in the same territory.

Following extract from Southern Pacific's tariff 230-G, C. R. C. No. 1260, Item 20-B, effective April 1, 1915, covers the absorption of State Belt Railroad's charges:

Item 20-B. Absorption Switching at San Francisco, California.

"This company when it receives the line haul on earload traffic will absorb of the charge exacted by the State Belt Railway for switching to or from *industry tracks* or team tracks served by the State Belt Railway the following:

(a) \$2.50 per car switching when delivered to or received from State Belt Railway through Ferry Slip, and destined to or moving from industry tracks or team tracks east of Van Ness avenue served by the State Belt Railway.

(b) \$2.50 per car switching charge for movement between interchange tracks at Second and King streets and industry tracks or team tracks south of Market street served by the State Belt Railway."

Corresponding item in defendant Western Pacific tariff is Item 70-C of C. R. C. 106.

Prior to April 1, 1915, Item 20-A of Southern Pacific's C. R. C. 1260, covering absorption of State Belt Railroad's charges read as follows:

Item 20-A. Absorption Switching at San Francisco, California.

"Southern Pacific Company will absorb the charge made by California State Board of Harbor Commissioners of \$2.50 per car for switching carload freight between Ferry Slip or transfer tracks with the State Belt Railway on the one hand, and *team tracks* of, or wharves served by the State Belt Railway on the other hand, at San Francisco, when originating at or destined to points on or by the line of the Southern Pacific Company beyond San Francisco, California."

Corresponding item in Western Pacific tariff is Item 70, of C. R. C. No. 106.

Item 9-3 of Southern Pacific tariff C. R. C. 1260 covers absorption of connecting carrier's switching charges on competitive traffic, effective April 1, 1915, and reads as follows:

Item 9-3. Absorption of Connecting Carrier Switching Charges.

"On carload traffic **competitive with the* connecting carrier performing the switching service on which the Southern Pacific Company receives a line haul, destined to or originating at *industry tracks* or wharves not reached by this company's rails, located within the switching limits at the stations of the carriers as shown below, this company will absorb, subject to the conditions of Item 5-B, the amount of connecting carrier's published charge for switching to or from the interchange track with this company."

Item 5-B.

"Southern Pacific Company will in no case absorb switching charge (or any portion thereof), of connecting line when such absorption results in less net revenue to this company than \$10.00 per car."

Corresponding item in Western Pacific tariff is 60-A of C. R. C. 106.

The three items set forth above were not made effective by tariff publication on intrastate traffic until April 1, 1915, but inasmuch as the United States Supreme Court sustained the decision of the Interstate Commerce Commission in the so-called *Pacific Coast Switching cases* (*Associated Jobbers of Los Angeles vs. A. T., & S. F. Ry. Co.*, 18 I. C. C.

*Definition of competitive traffic as shown in tariffs of the defendants "is traffic which at time of shipment may be handled at equal rates (exclusive of switching charge) from same point of origin to same destination via other carriers, one of which performs the switching service."

p. 310, and *Pacific Coast Jobbers and Manufacturers Association vs. Southern Pacific Co.*, 18 I. C. C. p. 333) the carriers, on August 12, 1914, discontinued the \$2.50 switching charge against interstate traffic and thereafter, in order to place the California shippers on an equality with interstate shippers, made reparation refunds under Rule 102 of this commission's Tariff Circular No. 2, on all intrastate shipments subject to the changes made in tariffs which moved subsequent to August 12, 1914.

Under the present tariff provisions, and by reason of the voluntary reparations made, the California Canneries Company claims to have been injured to the extent of \$2.50 per car on all shipments received from or destined to so-called *noncompetitive* points located on the lines of Southern Pacific and Western Pacific since August 12, 1914. This commission is petitioned to issue an order directing defendants to cease and desist from their alleged discriminatory practices and require the said defendants in future to absorb the charge of \$2.50 per car exacted by the Atchison, Topeka and Santa Fe Railway Company for switching earload traffic between complainant's factory and interchange tracks of Southern Pacific and Western Pacific, regardless of point of origin or destination, thereby placing complainant on an equal footing with the California Fruit Cannery Association with factory located on the State Belt Railroad.

It is further urged that reparation be ordered paid to complainant in the sum of \$2.50 per car on all noncompetitive shipments moving since August 12, 1914, between complainant's factory and the connecting tracks of defendants.

At the hearing it developed that the joint industry tracks on Illinois street, in the so-called "neutral zone," were originally constructed by the Atchison, Topeka and Santa Fe Railway under a franchise granted by the city and county of San Francisco and that the charter of the city and county of San Francisco provides that any franchise given to a railroad company to construct and operate tracks upon public streets shall carry with it an express obligation that any other carrier shall have the equal and joint use of such tracks upon paying its proportionate share of the cost of construction and operation. The franchise in this instance was granted to the Atchison, Topeka and Santa Fe Railway subject to those conditions and the Southern Pacific demanded and secured its right to the joint use of the tracks under the charter provisions. As a consequence, industries located in this neutral zone enjoy free switching service rendered by both the Atchison, Topeka and Santa Fe Railway and the Southern Pacific on all traffic regardless of point of origin or destination, and therefore they are on an equal footing with industries located on the State Belt Railroad. Such industries, therefore, have a decided advantage over an industry located, as

is the complainant in this case, upon a track served *only* by the Atchison, Topeka and Santa Fe Railway or an industry served *only* by the Southern Pacific or Western Pacific, not by reason of any discriminatory rate situation, but solely because of the advantage of location.

The Belt Railroad is owned by the State of California and is operated by the Board of State Harbor Commissioners. Its tracks extend around the water front in the city of San Francisco. Its freight tariffs are on file with this commission and among other items provide for a charge of \$2.50 per car for switching between any two points on the same division. The locomotives of the Belt Railroad perform all services, receiving the cars either from the connecting tracks of main line carriers or from the boats or barges of the carriers. The road is operated as a common carrier and it permits the use of its facilities at a certain charge to all traffic which offers. It has, in other words, dedicated all its facilities to the use of any carrier that may desire to employ them. In this respect, there is an essential difference between the Belt Line and the Atchison, Topeka and Santa Fe Railway.

Prior to April 1, 1915, the industries located on the Belt Railroad paid a switching charge of \$2.50 per car in addition to the main line freight charges. On April 1, 1915, as per the tariff amendments referred to, the carriers commenced the absorption of this switching charge on all traffic, whether competitive or noncompetitive.

Counsel for complainant urged that the issues framed by the pleadings included the issue of reasonableness of rates; this contention was challenged by defendants. Assuming, however, that an issue of reasonableness *per se* of the rates is presented in this case, it seems that the case of the *Interstate Commerce Commission vs. Stickney*, 215 U. S. 112, commonly referred to as the *Stickney* case, spoke decisively on that point when it held that the terminal charge for delivering a carload of live stock to the Union Stock Yards in Chicago, a point beyond the carrier's line, if it is just and reasonable and separately stated in the tariff schedules as required by law, can not be condemned or the carrier required to reduce it on the ground that it, taken with prior charges of transportation over the lines of the carrier or of connecting carriers, makes the total charge to the shipper unreasonable. In this case the reasonableness of the line haul rates of the defendants, separated from the switching charges, was not challenged, neither was the reasonableness of the switching charges, treated independently, attacked.

There was no attempt made on the part of complainant to establish the reasonableness of rates from any point of origin on the Southern Pacific or Western Pacific to points of delivery to the Atchison, Topeka and Santa Fe tracks, nor to compare the reasonableness of any such rates with the rates from point of origin on the Southern Pacific or Western Pacific tracks to point of delivery on the Belt Line tracks.

Under the rule declared in the *Stickney* case, it appears that under conditions herein found that the reasonableness of the terminal charge must stand or fall on its own merits.

With the issue of reasonableness *per se* of the rates eliminated, as I think it must be, the issues herein are reduced solely to discrimination.

We must go beyond mere character of service in our comparison for the purpose of determining whether or not discrimination exists, and we are compelled to inquire whether the relationship between the connecting carriers is similar in character of service.

As hereinbefore stated, all of the facilities of the Belt Railroad are dedicated to the use of any and all carriers that may desire them. The main, or I might say the sole, function and activity of the Belt Railroad are that of rendering terminal service. It is in this regard in no sense a competitor of the defendants. On the other hand, the Atchison, Topeka and Santa Fe is in direct and active competition with the defendants for main line hauls. Do we, therefore, find under these facts such a similarity in conditions as would warrant the conclusion that there is a discrimination because there is an absence of parity of rates? We think the answer must be in the negative. If the services performed by the Belt Railroad, for which its charges are absorbed, were performed by a carrier competing with defendants and defendants refused to absorb the Atchison, Topeka and Santa Fe switching charges of complainant, in that case it would undoubtedly be discrimination against complainant. If the rails of the three defendants had actually been constructed to the industries located on the Belt Railroad, this complainant certainly could not be heard to demand that defendants either extend their rails to its factory or absorb the connecting lines switching charges. The practical, if not the actual effect, of the absorption of Belt Railroad charges was to place the industries on that line on the rails of each of the defendant carriers.

The Atchison, Topeka and Santa Fe is a competitor of both the Southern Pacific and Western Pacific and has various terminal facilities in San Francisco; these terminals can not be used by its competitors without the payment of a reasonable compensation, neither can defendants be expected to absorb switching charges, although they may.

To sustain the contention of complainant would in effect be denying to the carriers the right, under any circumstances, to assess a switching charge within prescribed switching limits when the tariff involved a main line haul either by the originating or delivering carrier. The carriers on their own initiative might create such a situation, but it could not be confined to any one city, and to avoid discrimination as between localities such practice would, of necessity, have to be extended to all communities alike. I do not believe that it can be seriously urged

that this commission could order carriers to throw open their terminal facilities to the free use of their competitors.

Most careful consideration has been given to the contentions of complainant, and the authorities cited by it, but I am of the opinion that, for the reasons hereinbefore stated, the complaint should be dismissed.

I submit the following form of order:

ORDER.

Complaint and answer having been filed in the above entitled proceeding, and a public hearing having been held and the commission being fully apprised in the premises.

It is hereby ordered that the complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California this 8th day of February, 1917.

DECISION No. 4095.

CITY OF ALHAMBRA

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 884.

Decided February 10, 1917.

Complainant alleges that it is subject to a discriminatory rate in that it is obliged to pay a toll rate of 10 cents for calls between Alhambra and Los Angeles exchanges while no toll rate is charged for calls between Los Angeles and Glendale and Burbank exchanges.

Held. The various classes of local exchange rates in effect at Alhambra range from 25 cents to 75 cents less than the local exchange rates in effect at Glendale, such schedules are accordingly not comparable and do not constitute a case of unreasonable difference as to rates and service. Complaint dismissed.

Alfred Barstow, city attorney, for Complainant.

James T. Shaw and Mott & Dillon, for Defendant.

THELEN and GORDON, *Commissioners*.

OPINION.

The city of Alhambra, a municipal corporation of Los Angeles County, makes complaint that The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific company, defendant herein, discriminates against the city of Alhambra in the matter of the rates for telephone service between Alhambra and Los Angeles.

The burden of the complaint is that the defendant imposes a charge of 10 cents for each telephone message between its local exchanges in Alhambra and Los Angeles, in both directions, whereas no charge is made for telephone messages from defendant's exchange in Los Angeles to its exchanges in Glendale and Burbank, while, on the other hand, defendant's telephone subscribers in Glendale and Burbank are permitted 60 calls, without additional compensation, for individual line service, both business and residence, and 50 calls without additional compensation, for two-party line, both business and residence, and ten-party suburban service. Calls from defendant's exchanges in Glendale and Burbank to Los Angeles in excess of the number of calls just referred to are charged at the rate of two cents each.

The city of Alhambra asks that the alleged discrimination against the city of Alhambra and in favor of the cities of Glendale and Burbank be removed by directing the Pacific company to accord to each subscriber of its Alhambra local exchange 60 calls per month to Los Angeles, without additional compensation, and to each subscriber in its Los Angeles exchange unlimited switching to the Alhambra exchange.

The defendant made a preliminary motion to dismiss the complaint on the ground that under the Public Utilities Act, a municipality can not file a complaint against an alleged discrimination in public utility rates having the character of the discrimination herein complained of. Reference to sections 19 and 26 of the Public Utilities Act convinces us that there is no merit in this point. The Pacific company's motion will accordingly be dismissed.

Section 19 of the Public Utilities Act provides as follows:

"No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section."

It will be observed that this section provides in part that no public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The sole question in this proceeding is whether the Pacific company has established and maintains any unreasonable difference as to rates for interexchange service as between the Alhambra-Los Angeles service on the one hand and the Glendale and Burbank-Los Angeles service on the other hand.

In support of its claim that unreasonable discrimination exists, complainant represents that Alhambra adjoins Los Angeles on the east and

that Glendale adjoins Los Angeles on the north; that the population of defendant's Alhambra exchange area is 15,000 and that the population of defendant's Glendale exchange area is 17,000; that the population of the city of Alhambra and of the city of Glendale is approximately the same, being in each instance approximately 10,000; that the number of telephone stations in defendant's Alhambra exchange area on January 1, 1917, was 1,744 and the number of defendant's telephone stations in defendant's Glendale exchange area on the same day was 2,146; and that the distance between defendant's Alhambra exchange and its Los Angeles central exchange is 7.1 miles and the distance between defendant's Glendale exchange and its Los Angeles central exchange is 6.25 miles. Complainant urges that these facts show a similarity of conditions as between the Alhambra-Los Angeles service on the one hand and the Glendale and Burbank-Los Angeles service on the other, and urges that the difference in rates for telephone service between these communities, hereinbefore referred to, constitutes an "unreasonable discrimination" between localities under the provisions of section 19 of the Public Utilities Act and hence should be removed.

The Pacific company urges that the telephonic conditions as between the Alhambra-Los Angeles situation and the Glendale and Burbank-Los Angeles situation are historically different.

While defendant has had competition both in Alhambra and in Glendale, the Alhambra competitor, during the period of competition, continuously charged 10 cents for each telephone message between Alhambra and Los Angeles. The Glendale competitor, on the other hand, ever since the establishment of its exchange in Glendale, in October, 1904, has maintained unlimited service between Glendale and Los Angeles. The Pacific company, in so far as Alhambra is concerned, followed its competitor in charging 10 cents for service between Alhambra and Los Angeles. In Glendale, the Pacific company formerly gave a suburban service feeding out of Los Angeles. When the Pacific company established an exchange in Glendale, it first established unlimited service between Glendale and Los Angeles but later established the present limited free switching between these two exchanges. The defendant's subscribers in Burbank originally received suburban service out of the Glendale exchange. When the Burbank exchange was established the Burbank subscribers continued to receive, through the Glendale exchange, unlimited service between Burbank and Los Angeles.

Historically, the difference in the rates for service between Alhambra and Los Angeles on the one hand and Glendale and Burbank and Los Angeles on the other, was due to difference in competitive conditions in these communities.

The Pacific company urges that the Alhambra and the Glendale conditions are not comparable for the reason that its local exchange rates in these two exchanges are different. Defendant contends that the similarity of telephonic conditions on which complainant relies accordingly does not exist.

The Pacific company's local exchange rates for business service and residence service in Alhambra are as follows:

Alhambra.
Business Service.

	Wall set	Desk set
Individual line	\$2 50	\$2 50
Two-party line	2 00	2 25
Four-party line	2 00	2 00

Residence Service.

Individual line	\$2 00	\$2 00
Two-party line	1 50	1 75
Four-party line	1 25	1 50

Alhambra subscribers of the Pacific company have unlimited service to the El Monte and Arcadia exchanges of the Pacific company.

The Pacific company's local exchange rates for business service and residence service in its Glendale exchange are as follows:

Glendale.
Business Service.

	Wall set	Desk set
Individual line (60 free calls to Los Angeles)	\$3 00	\$3 25
Two-party line (50 free calls to Los Angeles)	2 50	2 75
Suburban service, 10-party line (50 free calls to Los Angeles) ..	2 50	2 75

Residence Service.

Individual line (60 free calls to Los Angeles)	\$2 00	\$2 25
Two-party line (50 free calls to Los Angeles)	1 50	1 75
Suburban service, 10-party line (50 free calls to Los Angeles) ..	2 50	2 75

The Pacific company's Glendale subscribers have unlimited service to Burbank. They pay two cents for each call to Los Angeles in excess of the number of free calls allowed each month. Los Angeles subscribers of the Pacific company may telephone to the Pacific company's

Glendale and Burbank subscribers without any additional compensation, regardless of the number of calls.

It will be observed from the foregoing rate schedules that the rates in Glendale for individual line business service are 50 cents higher than in Alhambra for a wall set and 75 cents higher for a desk set and that the rates for two-party business service, for both wall set and desk set, are 50 cents higher in Glendale than in Alhambra. Furthermore, the rate for individual line residence service is 25 cents higher for desk set in Glendale than in Alhambra. Also, Alhambra subscribers may avail themselves of four-party residence service at a rate 25 cents per month less than two-party residence service in Glendale, while it is not possible for Glendale subscribers to secure any four-party residence service. It thus appears that in important respects the local exchange rates in Alhambra are lower than the local exchange rates in Glendale. Defendant urges that under these conditions the Glendale situation is not fairly comparable with the Alhambra situation.

Defendant further urges that Glendale and Burbank are its only two exchanges which enjoy to any extent the privilege of free calls to and from Los Angeles.

The Pacific company's local exchanges adjoining or near to its Los Angeles exchange, with the mileage in each instance from the company's central Los Angeles exchange and the number of telephone stations in the local exchange, are as follows:

Exchange	Mileage from Los Angeles	Number of telephone stations
Alhambra -----	7.1	1,744
Glendale -----	6.25	2,146
Burbank -----	9.5	140
Arcadia -----	13.5	189
El Monte -----	11	190
Inglewood -----	8.5	395
Long Beach -----	19	3,275
Pasadena -----	10.5	13,600
San Pedro -----	21	1,153
Redondo -----	16.5	525
Santa Monica -----	13.25	2,129
Torrance -----	14	50 to 60
Van Nuys -----	14	150
Wilmington -----	19	115

The exchange rates in the Eagle Rock exchange, which is not mentioned in the foregoing table, are computed on a mileage basis from Los Angeles and there is no toll charge for messages between the Los Angeles and the Eagle Rock exchanges.

Toll charges are in effect between each of the exchanges in the foregoing list and Los Angeles, except the Glendale and Burbank exchanges.

The Pacific company urges that if Alhambra's request is now granted, there will be no logical answer to requests from all the other local exchanges contiguous to Los Angeles to receive similar privileges, resulting in an unjustifiable diminution in the Pacific company's revenues.

In its Exhibit No. 2 herein, the Pacific company claims that in the year 1915 its maintenance and operating expenses and depreciation annuity for the Alhambra exchange were \$8,708.78 in excess of the operating revenues from the exchange. The Pacific company claims an allowance of \$16,058.59 for depreciation annuity for the Alhambra exchange, on which claim it is not necessary to pass herein. This matter, as well as other matters going to the question of just and reasonable local exchange rates to be charged by the Pacific company in its Alhambra exchange, will be carefully considered and will be determined by the Railroad Commission in Application No. 1870, *The Pacific Telephone and Telegraph Company*, in which proceeding the Railroad Commission will establish just and reasonable local exchange rates to be charged by the Pacific company in each of its local exchanges in the State of California.

In its Exhibit No. 1 herein, the Pacific company shows that if the rates for business between its Alhambra and Los Angeles exchanges asked by complainant had been applicable for the year ending July 20, 1915, to the Pacific company's business between its Alhambra and Los Angeles exchanges, the Pacific company would have suffered a loss in revenue as follows:

Interexchange messages, Alhambra to Los Angeles.....	\$6,386 80
Interexchange messages, Los Angeles to Alhambra.....	9,858 66
Total loss	<u>\$16,245 46</u>

It is not necessary herein to analyze these claims or the further claim made in Exhibit No. 4 of the Pacific company to the effect that in order to take care of the additional business which would result from the rates urged by complainant herein, it would be necessary for the Pacific company to expend in first cost of additional facilities the sum of \$109,538.23. That substantial losses would accrue to the Pacific company if free switching were installed between Alhambra and Los Angeles to the extent asked by complainant and that a considerable additional expense would be incurred by the Pacific company in order to take care of the additional business which would move between Alhambra and Los Angeles, is clear.

On the issue of discrimination herein presented, we find that telephonic conditions, as between the Alhambra and Glendale exchanges, are not comparable for the reason that the local exchange rates, which must be considered in connection with the rates for service between the

exchange affected and the Los Angeles exchange of the defendant, vary materially as between Alhambra and Glendale. As already shown, the local exchange rates for business service in Alhambra are 50 cents, and in one case 75 cents less than the defendant's rates for the same service in Glendale. Furthermore, Alhambra subscribers of the Pacific company desiring residence service may secure four-party residence service at a rate of 25 cents per month less than the cheapest residence service of which the Glendale subscribers of the Pacific company may avail themselves. When the Glendale subscriber pays a higher monthly local exchange rate than the Alhambra subscriber, he to that extent pays, at least in part, for the greater privilege which he enjoys in connection with interexchange service between Glendale and Los Angeles.

In view of the difference in local exchange rates, the Alhambra and the Glendale exchanges can not properly be compared on the issue of discrimination. The complainant having selected the Glendale exchange for the purpose of its comparison, this exchange not being fairly comparable with the Alhambra exchange for the reasons stated and the Pacific company's other local exchanges in the vicinity of its Los Angeles exchange all paying toll for messages to Los Angeles just as Alhambra does, we find that complainant has not established a case of unreasonable difference as to rates and service, and that the complaint herein must be dismissed.

ORDER.

Public hearings having been held in the above entitled complaint and this proceeding having been submitted and being now ready for decision,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of February, 1917.

DECISION No. 4096.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE BONDS OF THE FACE VALUE OF THREE HUNDRED THIRTY-EIGHT THOUSAND DOLLARS, AND PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

Application No. 2661.

Decided February 10, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to issue its first mortgage 5 per cent bonds of the face value of \$334,000.00 on the following conditions and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company may pledge said bonds at not less than 92 per cent of their face value as security for the payment of promissory notes to be issued by San Diego Consolidated Gas and Electric Company for the purpose of paying the floating indebtedness and promissory notes of San Diego Consolidated Gas and Electric Company as of December 31, 1916, as said floating indebtedness and promissory notes are set forth in paragraph 2 of the order of February 8, 1917, in the above entitled proceeding.

2. The provisions of said order of February 8, 1917, referring to the keeping of accounts and the making of verified reports, the payment of the fee specified in the Public Utilities Act, and the time within which said bonds shall be issued shall be applicable to any bonds issued under authority of this first supplemental order.

3. The authority herein given to pledge said bonds is an alternative to the authority given in the order of February 8, 1917.

Dated at San Francisco, California, this 10th day of February, 1917.

DECISION No. 4097.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA EDISON COMPANY FOR LEAVE TO ISSUE FIFTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK.

Application No. 2743.

Decided February 13, 1917.

Applicant authorized to issue \$5,000,000.00 par value of its common capital stock to be sold at not less than 91½, proceeds to be used partly to pay off bonds and floating indebtedness of the Pacific Light and Power Corporation, provided the commission authorize the transfer of property of the latter company to applicant, the balance for additions and betterments. All of proceeds to be held in a special fund and expended only as specified under supplemental orders.

H. H. Trowbridge, for Applicant.

EDGERTON, Commissioner.

OPINION.

This is an application of Southern California Edison Company for authority to issue and sell 50,000 shares of its common capital stock at a net price of not less than \$91.50 per share.

Applicant is now and for a number of years past has been engaged in the business of generating, transmitting and selling electric energy for light, heat and power within the counties of Kern, Ventura, Los Angeles, Orange, San Bernardino, and Riverside.

If the application now before the commission is granted, it is petitioner's intention to first offer this \$5,000,000.00 par value of stock to its present stockholders in proportion to their respective holdings, at 95½ per cent of par and accrued dividend.

Such stock as is not taken by the shareholders is then to be sold to an underwriting syndicate. To this end applicant has entered into a contract with Wm. P. Bonbright & Company and Gustav Ulbricht of New York, for the sale of the entire \$5,000,000.00 par value of stock, or such portion as is not sold to the present shareholders, at 95½ per cent of par less a commission of 3 per cent. Applicant also agrees to pay the managers of the underwriting syndicate the sum of \$50,000.00, making the net selling price \$91.50 per share.

Applicant desires to use the proceeds from the sale of said \$5,000,000.00 of common capital stock, for the following purposes:

(a) In an amount not exceeding \$4,000,000.00 to pay for \$5,000,000.00 face value of bonds issued by Pacific Light and Power Corporation under its mortgage and deed of trust, dated November 20, 1911, to United States Mortgage and Trust Company, trustee. This use is dependent upon the granting of Southern California Edison Company's

application to purchase the properties of Pacific Light and Power Corporation, which application is now pending before this commission.

(b) In an amount not exceeding \$2,480,405.05 to discharge notes of Pacific Light and Power Corporation. This use is also dependent upon the merger of applicant's properties with Pacific Light and Power Corporation.

(c) To pay a portion of the cost of proposed additions and betterments during the two years ending December 31, 1918. The additions and betterments contemplated during this period total \$7,992,000.00.

The financial affairs of this company have been frequently reviewed by the commission.

In Decision No. 770, dated July 2, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, page 19), the company was granted authority to issue \$3,000,000.00 par value of its common capital stock at 80 per cent of par, the proceeds to be used in refunding and retiring indebtedness and for additions and betterments. The order provided that if \$2,000,000.00 par value of said stock were underwritten at 80 per cent of par, that a commission might be paid thereon of \$2.50 per share. In a supplemental order, dated September 23, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, page 597), the commission raised the price at which said stock should be sold to 82½ per cent of par and allowed the company to pay the underwriters a commission of not to exceed \$5.00 per share.

In Decision No. 2213, dated March 11, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 341), Southern California Edison Company was granted authority to issue \$2,750,000.00 par value of common capital stock for the purpose of taking up and refunding an issue of five-year 6 per cent debentures, to be issued under an agreement with Los Angeles Trust and Savings Bank, trustee, dated March 15, 1915, the basis of exchange to be 11 shares of stock for one debenture of the par value of \$1,000.00.

At the present time applicant has stock outstanding as follows:

	Authorized	Outstanding
First preferred	\$4,000,000 00	\$4,000,000 00
Second preferred	12,500,000 00	-----
Common	83,500,000 00	10,411,000 00

After a consideration of the evidence herein presented, I am of the opinion that applicant may be permitted to sell 50,000 shares of its common capital stock as herein applied for, subject to the condition that the proceeds shall be held in a special fund to be disbursed only

under subsequent orders of this commission. I submit the following form of order:

ORDER.

Southern California Edison Company having applied to this commission for authority to issue 50,000 shares of its common capital stock of the par value of \$100.00 per share under an agreement, dated January 20, 1917, between John B. Miller, president of Southern California Edison Company, and Wm. P. Bonbright & Company and Gustav Ulbricht, which agreement provides for the underwriting of said issue of \$5,000,000.00 par value of common capital stock at 95½ per cent of the par value and dividend, less a commission of 3 per cent, and an additional payment of \$50,000.00 to the managers;

And it appearing to this commission that applicant's request is reasonable and should be granted and that the purposes for which it is proposed to issue said stock are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Southern California Edison Company be and it is hereby authorized to issue and sell 50,000 shares of its common capital stock of the par value of \$100.00 per share, under the terms of an agreement, dated January 20, 1917, between John B. Miller, president of Southern California Edison Company, and Wm. P. Bonbright & Company and Gustav Ulbricht.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be sold so as to net applicant not less than 91½ per cent of its par value.

2. The proceeds from the sale of said stock shall be placed in a special fund and expended only after applicant shall have filed with this commission a detailed statement of the purposes for which it proposes to use said moneys and shall have received a supplemental order from this commission approving the same.

3. Southern California Edison Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as shall have been issued on or before January 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commissioner of the State of California.

Dated at San Francisco, California, this 13th day of February, 1917.

DECISION No. 4098.

IN THE MATTER OF THE APPLICATION OF MARY K. WOHLFORD AND LOS ANGELES TRUST AND SAVINGS BANK FOR AN ORDER AUTHORIZING THE SALE OF THEIR GAS AND ELECTRIC PROPERTIES IN THE CITY OF ESCONDIDO, SAN DIEGO COUNTY, TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, AND OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO PURCHASE THE SAME.

Application No. 2668.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THIRTY THOUSAND DOLLARS AND PREFERRED STOCK OF THE PAR VALUE OF TEN THOUSAND DOLLARS.

Application No. 2669.

Decided February 10, 1917.

Permission granted for the transfer of gas and electric properties at Escondido, formerly owned by the Escondido Utilities Company, to the San Diego Consolidated Gas and Electric Company for the sum of \$40,000.00 and the latter company authorized to issue \$30,000.00 face value of its 5 per cent bonds and \$10,000.00 par value of its preferred stock, bonds to be sold at not less than 95 and stock at not less than par, proceeds to be applied on purchase price of properties acquired. Stipulations to be filed to the effect that no value, in excess of actual original cost, shall ever be claimed for any franchise or right acquired and that the purchase price shall not be urged as a basis for fixing rates.

1. The Railroad Commission will not be bound by any provisions in agreements entered into by two utilities with reference to division of territory and alterations in prices to be paid for electric energy.
2. A mutual water company generating electric energy which it sells in wholesale quantities under an agreement to a public utility is an electric corporation and a public utility as defined in section 2 of the Public Utilities Act.
3. The uniform classification of accounts prescribed by the Railroad Commission for electric corporation provides that all charges made to fixed capital with respect to any property acquired on or after January 1, 1913, shall be the actual money cost of the property. Such rule is held to apply in the present instance.

L. A. Wright, for Mary K. Wohlford and Los Angeles Trust and Savings Bank.

Sweet, Stearns & Forward, by *F. W. Stearns*, and *Chickering & Gregory*, by *Allen L. Chickering*, for San Diego Consolidated Gas and Electric Company.

THELEN, *Commissioner*.

OPINION.

The amended petition in Application No. 2668, asks the Railroad Commission to make its order authorizing Los Angeles Trust and Savings Bank and Mary K. Wohlford to sell to San Diego Consolidated Gas and Electric Company the gas and electric properties in the city of Escondido formerly belonging to Escondido Utilities Company and authorizing San Diego Consolidated Gas and Electric Company to purchase said property for the sum of \$40,000.00.

The petition in Application No. 2669 asks the Railroad Commission to make its order authorizing San Diego Consolidated Gas and Electric Company to issue its first mortgage 5 per cent bonds of the face value of \$30,000.00 at not less than 95 per cent of their face value and its preferred capital stock of the par value of \$10,000.00, at not less than par, and to use the proceeds from the issue of said securities for the purpose of acquiring the gas and electric properties in the city of Escondido formerly owned by Escondido Utilities Company.

Public hearings in these proceedings were held in San Francisco on January 10, 1917, and in Escondido on February 3, 1917. By stipulation of all the parties, these proceedings were consolidated for hearing and decision. The proceedings were submitted on February 3, 1917.

The property to be sold to San Diego Consolidated Gas and Electric Company consists of the gas and electric properties in the city of Escondido formerly owned by Escondido Utilities Company, with all rights, privileges and franchises connected therewith, including 112.98 shares of the capital stock of Escondido Mutual Water Company of the par value of \$1.00 per share.

The electric system consists of a steam electric generating plant located at Escondido, together with a 2,300-volt electric distribution system. The gas property consists of two oil gas generators, equipment used in connection therewith, and a low pressure distribution system.

The electric property has approximately 350 services, 143 meters, and 80 kilowatts of transformers, together with the municipal street lighting system of 108 lamps. The gas property includes 260 gas services and approximately 220 gas meters.

This property was formerly owned and operated by Escondido Utilities Company. Construction on the electric plant commenced on November 18, 1909, and service was first rendered on May 5, 1910. Construction on the gas plant commenced early in 1910 and operation in August, 1910. For decisions of the Railroad Commission referring to this property while owned and operated by Escondido Utilities Company, reference is hereby made to Decision No. 2097, made on January

22, 1915, in Application No. 1443 (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 96), and to Decision No. 2134, made on February 5, 1915, in Application No. 1355, (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 156).

Escondido Utilities Company being unable to pay a promissory note for \$16,000.00, secured by its first mortgage bonds of the face value of \$32,000.00, which note had been purchased by Mr. A. W. Wohlford, possession of the property passed to Los Angeles Trust and Savings Bank, trustee under the mortgage, on November 18, 1915. Prior to December, 1915, night service only was supplied by this property. As the result of negotiations between Los Angeles Trust and Savings Bank and Escondido Mutual Water Company, which company owns and operates certain hydroelectric plants in the vicinity of Escondido, the trustee, during and subsequent to December, 1915, secured its electric energy from Escondido Mutual Water Company, shut down the steam electric plant in Escondido, and thereafter rendered a 24-hour electric service. The Los Angeles Trust and Savings Bank purported to lease its electric distributing system in the city of Escondido to Escondido Mutual Water Company, which company served electric energy directly to approximately 156 of its stockholders in the city of Escondido and indirectly through Los Angeles Trust and Savings Bank and thereafter through Mary K. Wohlford, to the remaining users of electric energy in the city of Escondido.

The lease of the electric distributing system to Escondido Mutual Water Company was void for the reason that the Railroad Commission's consent was not secured, as provided by section 51 of the Public Utilities Act.

On August 12, 1916, Los Angeles Trust and Savings Bank, acting under a provision of the trust deed or mortgage, sold the entire gas and electric property of Escondido Utilities Company to Mary K. Wohlford, daughter of Mr. A. W. Wohlford, for the sum of \$10,000.00, subject to the outstanding indebtedness. Miss Wohlford has operated the property under the arrangement theretofore entered into between Los Angeles Trust and Savings Bank and Escondido Mutual Water Company. The sale of the property to Miss Wohlford did not pass legal title to her for the reason that the consent of the Railroad Commission to the sale of the property was not secured, as provided by section 51 of the Public Utilities Act. Los Angeles Trust and Savings Bank, trustee under the deed of trust or mortgage of Escondido Utilities Company, by amendment of the petition herein made at the hearing in Escondido, now asks authority to sell the property to Miss Wohlford, and Miss Wohlford asks authority to sell it to San Diego Consolidated Gas and Electric Company for the sum of \$40,000.00 in

accordance with agreement between Miss Wohlford and San Diego Consolidated Gas and Electric Company, dated November 13, 1916, a copy whereof is attached as Exhibit "A" to the original petition in Application No. 2668.

The assets and liabilities of Escondido Utilities Company as of December 31, 1915, as shown by the annual report filed with the Railroad Commission by Los Angeles Trust and Savings Bank, then in possession of the property, appear in Table I.

TABLE I.

Assets and Liabilities—Escondido Utilities Company, December 31, 1915.

Assets—		
Fixed capital		\$87,232 62
Electric department	\$44,281 13	
Gas department	22,951 59	
Cash		1,476 85
Due from consumers and agents		1,957 20
Securities of other corporations		112 00
Prepayments		83 30
Discount on stock		56,570 04
Deficit		2,659 41
Total assets		\$130,091 42
Liabilities—		
Stock		\$92,200 00
Stock assessment		3,698 00
Funded debt		*5,000 00
Notes payable		21,850 00
Accounts payable		6,213 59
Consumers deposits		205 30
Meter deposits		685 25
Reserve for amortization of intangible capital		239 28
Total liabilities		\$130,091 42

Petitioners introduced as Exhibit No. 1, an estimate of the cost to reproduce new the physical property of Escondido Utilities Company and of the cost to reproduce the same new less accrued depreciation. This exhibit states that the cost to reproduce the property of the gas department as of January 1, 1917, was the sum of \$26,024.82 and of the electric department the sum of \$48,415.17. The cost to reproduce the property of the gas department less accrued depreciation is reported to be \$20,923.98 and the cost to reproduce the property of the electric department less accrued depreciation is reported to be \$38,873.37. Petitioners testified that these estimates were only approximate, that they were too high, and that they needed revision.

*Bonds pledged, not included in above, \$45,000.00.

Mr. L. S. Ready, one of the Railroad Commission's assistant engineers, presented as Railroad Commission's Exhibit No. 1, an estimate of the cost and of the value of the property to be conveyed to San Diego Consolidated Gas and Electric Company. Table II shows the conclusions reached by Mr. Ready.

TABLE II.

Estimates of Cost and Value Gas and Electric Property Formerly Owned by Escondido Utilities Company.

Assistant Engineer, L. R. Ready.

	Total present properties		Useful properties		Estimated present worth
	Estimated reproduction cost new	Estimated reproduction cost new, less accrued depreciation	Estimated reproduction cost new	Estimated reproduction cost new, less accrued depreciation	
Gas -----	\$24,702 00	\$19,725 00	\$24,702 00	\$19,725 00	¹ \$11,800 00
Electric -----	43,620 00	32,561 00	23,574 50	17,560 00	² 22,600 00
	\$68,322 00	\$52,286 00	\$48,276 50	\$37,285 00	\$33,400 00
Nonoperative -----					2,250 00
					\$35,750 00

The estimated reproduction cost new and the estimated reproduction cost less accrued depreciation of the property, as shown in Table II, have been estimated according to the methods usually employed by engineers in preparing such estimates. The estimated present worth, shown in column number five of Table II, was secured by capitalizing the net earnings of the gas property and of the electric property as estimated by San Diego Consolidated Gas and Electric Company from the rates which the company proposes to establish in Escondido.

San Diego Consolidated Gas and Electric Company proposes to continue the operation of the gas plant in Escondido, with certain improvements to be made therein.

With reference to the service of electric energy, San Diego Consolidated Gas and Electric Company has entered into a contract with Escondido Mutual Water Company for the supply of surplus electric energy and also proposes to construct two electric transmission lines so as to enable the company to supply in Escondido electric energy generated in the company's steam plant in the city of San Diego.

The contract with Escondido Mutual Water Company is dated November 13, 1916, and a copy thereof was filed herein as Exhibit No. 3 of petitioners. By this contract Escondido Mutual Water Company agrees to sell and San Diego Consolidated Gas and Electric Company

¹Deducted \$1,000.00 for working capital and material and supplies from gas capital.

²Deducted \$1,800.00 for working capital and material and supplies from electric capital.

agrees to purchase for the period of twenty-five years all surplus electric energy generated by Escondido Mutual Water Company's hydro-electric plants, at the rate of $1\frac{1}{2}$ cents per kilowatt hour, delivered at 11,000 volts at the city limits of Escondido. In case Escondido Mutual Water Company should have a shortage of electric energy for its own purposes, San Diego Consolidated Gas and Electric Company agrees to sell to Escondido Mutual Water Company the requisite electric energy at the rate of $1\frac{1}{2}$ cents per kilowatt hour, delivered at the same point. The agreement contains certain provisions with reference to division of territory and alterations in the price to be paid for electric energy under the agreement, to which it is not necessary herein to refer for the reason that the Railroad Commission would not, in any event, be in any way bound by such provisions. By selling electric energy under this agreement to San Diego Consolidated Gas and Electric Company, Escondido Mutual Water Company will become an electric corporation and a public utility, as said terms are defined in section 2 of the Public Utilities Act, and, at least to that extent, will be subject to the jurisdiction of the Railroad Commission.

San Diego Consolidated Gas and Electric Company proposes to construct a 22,000-volt transmission line from Olivenhain to Escondido, a distance of approximately 13 miles, at an estimated cost of \$21,290.56, and a second transmission line from Vista to Escondido, a distance of approximately 13 miles, of 11,000-volt construction, at an estimated expenditure of \$14,141.79. These lines will tie in to the main transmission line of San Diego Consolidated Gas and Electric Company constructed by that company from its steam electric plant in San Diego north through Del Mar to Oceanside. San Diego Consolidated Gas and Electric Company expects to develop some business in the territory to be traversed by these two proposed transmission lines, in addition to providing a stable service for Escondido.

The rates heretofore charged by Escondido Utilities Company for gas have been as follows:

50 cents per consumer per month plus:

\$1.00 per 1,000 cubic feet for first 10,000 cubic feet per month.

.80 per 1,000 cubic feet for all over 10,000 cubic feet per month.

San Diego Consolidated Gas and Electric Company proposes to continue in effect the present rates for gas in Escondido.

The rates for electric service heretofore charged by Escondido Utilities Company for residence and commercial lighting and for power have been as follows:

Residence and Commercial Lighting.

10 cents per kilowatt hour.

Minimum, \$1.50 per month.

Power.

5 cents per kilowatt hour.

Minimum, \$1.00 per horsepower per month.

Approximately 200 consumers, including a number of stockholders of Escondido Mutual Water Company, have been purchasing electric energy from Miss Wohlford at the above rates.

The rates which have been charged by Escondido Mutual Water Company to approximately 156 stockholders in the city of Escondido have been as follows:

Lighting.

8 cents per kilowatt hour for the first 25 kilowatt hours per month.

7 cents per kilowatt hour for the next 25 kilowatt hours per month.

6 cents per kilowatt hour for the next 50 kilowatt hours per month.

5 cents per kilowatt hour for all over 100 kilowatt hours per month.

Minimum bill, \$1.00 per month.

Power.

4 cents per kilowatt hour for the first 100 kilowatt hours per month.

3 cents per kilowatt hour for the next 200 kilowatt hours per month.

2.8 cents per kilowatt hour for the next 300 kilowatt hours per month.

2.6 cents per kilowatt hour for the next 300 kilowatt hours per month.

2.4 cents per kilowatt hour for the next 400 kilowatt hours per month.

2.2 cents per kilowatt hour for the next 500 kilowatt hours per month.

2 cents per kilowatt hour for all over 1,800 kilowatt hours per month.

Minimum bill, \$1.00 per horsepower per month.

The rates which San Diego Consolidated Gas and Electric Company proposes to charge for electric service, as modified at the hearing in Escondido, are as follows:

Residence and Commercial Lighting.

10 cents per kilowatt hour for the first 30 kilowatt hours per month.

8 cents per kilowatt hour for the next 450 kilowatt hours per month.

5 cents per kilowatt hour for the next 1,020 kilowatt hours per month.

4 cents per kilowatt hour for the next 1,500 kilowatt hours per month.

3 cents per kilowatt hour for all over 3,000 kilowatt hours per month.

10 per cent discount for payment within 12 days.

Minimum bill, \$1.00 per meter per month.

Municipal Street Lighting.

Rates now in effect in Escondido.

Power.

Rates established by the Railroad Commission in Decision No. 3839 in Application No. 1925, and applicable over entire system of San Diego Consolidated Gas and Electric Company.

The rates to be established by San Diego Consolidated Gas and Electric Company for residence lighting service are clearly less than those heretofore charged by Escondido Utilities Company and Miss Wohlford. While it may appear that these rates are in excess of those

which have heretofore been charged by Escondido Mutual Water Company to the stockholders served by it in the city of Escondido, the testimony shows that if consideration is given to the assessments which have been paid on their capital stock by the stockholders of Escondido Mutual Water Company, the rates proposed to be charged by San Diego Consolidated Gas and Electric Company are not in excess of the rates heretofore charged by Escondido Mutual Water Company.

With reference to the rates for power, there will probably be some increase in some instances in the rates heretofore charged in Escondido. If hardship results in any case, the matter may hereafter be taken up by the parties with the Railroad Commission.

With reference to the rates for municipal street lighting, San Diego Consolidated Gas and Electric Company proposes to continue to charge the existing rates for the existing service, but represents that the existing service is not a first class service and that the company contemplates entering into negotiations with the city of Escondido for the supply of better service at increased rates.

San Diego Consolidated Gas and Electric Company proposes to give to the people of Escondido first-class service of both gas and electricity and to pursue a liberal policy in making extensions. The company reports that there is considerable business in Escondido which can readily be secured through the active business campaign which the company proposes to inaugurate in Escondido.

Table III shows a statement of revenues and expenses of the gas property in Escondido for the years 1914, 1915, and 1916, together with an estimate for the year 1917, as prepared by San Diego Consolidated Gas and Electric Company.

TABLE III.

Gas Department, Revenues and Expenses, 1914, 1915, 1916 and Estimate for 1917.

	Year 1914	Year 1915	Year 1916	Year 1917, estimated
<i>Operating Revenues.</i>				
Commercial heat, power and lighting, metered -----	\$5,774 13	\$6,601 56	\$6,483 08	\$7,250 00
Prepaid gas -----	147 75	143 75	102 25	-----
Total revenue -----	\$5,921 88	\$6,745 31	\$6,585 33	\$7,250 00
<i>Operating Expense Accounts.</i>				
Labor -----	\$1,357 84	\$1,604 09	\$1,101 00	\$1,010 00
Supplies -----	149 28	184 52	353 08	350 00
Fuel -----	2,588 29	1,577 25	2,447 80	2,190 00
Repairs to furnaces and boilers -----	167 19	56 03	26 00	50 00
Repairs to plant buildings, etc. -----	95 39	14 99	74 41	60 00
Repairs to distributing system -----	71 27	51 40	16 70	50 00
Setting and removing meters -----	19 00	60 73	2 65	200 00
Repairs to meters -----	2 35	50	47 09	100 00
Meter reading -----	55 35	43 55	23 25	40 00
New business -----	61 90	9 00	75	500 00
Law expenses -----	7 50	611 58	-----	1
Railroad Commission expenses -----	-----	8 00	-----	-----
Other general expenses -----	-----	223 40	-----	-----
Salaries of general officers -----	247 50	397 76	312 50	145 00
Salaries of office clerks -----	440 00	592 90	240 00	175 00
General office expenses -----	276 96	621 00	112 44	100 00
City franchise tax -----	-----	93 73	-----	145 00
Insurance -----	68 92	59 05	59 03	65 00
Taxes -----	324 00	439 61	258 41	380 00
Total operating expenses, gas -----	\$5,932 74	\$6,649 09	\$5,075 11	\$5,560 00
Gross net income, gas department -----	¹ \$10 86	\$96 22	\$1,510 22	\$1,690 00
Depreciation annuity, gas department -----	-----	-----	-----	583 84
² Net income, gas department -----	³ \$10 86	\$96 22	\$1,510 22	\$1,106 16

As will be observed, Table III contains no charges to depreciation annuity for the years 1914, 1915 and 1916 and no reference to interest charges or return on investment.

Table IV shows a statement of revenues and expenses of the electric property in Escondido for the years 1914, 1915, and 1916, together with an estimate for the year 1917, as prepared by San Diego Consolidated Gas and Electric Company.

¹ Proportion of legal expense based on gross income would be \$35.00 but there will in reality be no increase.

² Without deductions for depreciation in years 1914, 1915 and 1916.

³ Deficit.

TABLE IV.

Electric Department, Revenues and Expenses 1914, 1915, 1916, and Estimate for 1917.

	Year 1914	Year 1915	Year 1916	Year 1917, estimated
<i>Operating Revenues.</i>				
Municipal street lighting.....	\$1,605 00	\$1,617 50	\$1,746 25	\$2,140 00
Commercial lighting—metered	5,157 65	5,338 45	3,070 61	6,760 00
Commercial lighting—flat rate.....	2,401 58	2,651 75	300 00	
Commercial power—metered				1,800 00
Miscellaneous electric revenue.....	5 50			
Rent of distribution lines.....			2,129 69	
Total revenue	\$9,169 73	\$9,607 70	\$7,246 55	\$10,700 00
<i>Operating Expense Accounts.</i>				
Labor	\$1,808 25	\$1,693 58	\$302 28	\$200 00
Supplies	340 98	299 55	1 50	10 00
Fuel	3,385 17	3,270 71		
Repairs to furnaces and boilers.....	780 75	161 42		100 00
Repairs to plant buildings, etc.....		6 75		10 00
Repairs to distribution system.....	51 65	65 08	23 83	900 00
Setting and removing meters	6 25			350 00
Repairs to municipal lighting system.....	251 71	260 91	88 62	300 00
Meter reading	55 50	41 50	21 75	60 00
New business	61 90	9 00	75	630 00
Law expenses	7 50	745 33		1
Freight and drayage.....	32 90			
Railroad Commission expenses.....		37 00		
Other general expenses.....	151 50	272 00		
Setting transformers		5 45		
Electric energy purchased.....			3,516 20	2,800 00
Salaries of general officers.....	247 50	397 76	312 50	250 00
Salaries of office clerks.....	440 00	592 89	240 00	280 00
General office expenses.....	276 96	621 01	112 43	100 00
City franchise tax.....		93 73		250 00
Insurance	68 93	59 05	59 03	60 00
Taxes	404 80	613 91	258 42	660 00
Total operating expenses.....	\$8,372 25	\$9,246 63	\$4,937 31	\$6,960 00
Gross net income, electric department.....	\$797 48	\$361 07	\$2,309 24	\$3,740 00
Depreciation annuity, electric department				964 41
Net income, electric department.....	\$797 48	\$361 07	\$2,309 24	\$2,775 59

The revenue estimated for the year 1917 is based by San Diego Consolidated Gas and Electric Company on the business which is anticipated for that year, allowing an increase of approximately 10 per cent over the business of 1916, estimated on the revised rates which San Diego Consolidated Gas and Electric Company proposes to charge. As will be observed, Table IV makes no allowance for depreciation annuity except in the estimate for 1917 and makes no reference to return on the investment or interest charges.

¹Proportion of legal expense based on gross income would be \$65.00, but there will in reality be no increase.

San Diego Consolidated Gas and Electric Company represents that it will be able, by consolidating the Escondido properties with its other properties, to effect substantial economies in operating expenses, as shown in the estimates for 1917 as they appear in Tables III and IV.

The uniform classification of accounts for electric utilities prescribed by the Railroad Commission provides, in part, as follows:

“All charges made to fixed capital or other property account with respect to any property acquired on or after January 1, 1913, shall be the actual money costs of the property.”

I see no reason, in the present case, for departing in any way from this rule. San Diego Consolidated Gas and Electric Company should add to its capital account the actual cost of acquiring the Escondido property, which cost is the sum of \$40,000.00.

Gas has been served in Escondido under the constitutional franchise granted by section 19 of Article XI of the constitution of this state prior to the amendment of October 10, 1911. Electric energy has been served under the franchise granted by said section of the constitution and also under franchise granted by the city of Escondido to Seth Hartley, his successors and assigns, for the term of 50 years, by Ordinance No. 136, passed on September 28, 1909. The order herein will contain the usual provision, on a transfer of property, with reference to franchise values.

At the hearing held in Escondido on February 3, 1917, testimony with reference to the desirability of the contemplated transfer was presented by a number of public officials and other leading citizens of the city of Escondido. The unanimous sentiment of these witnesses was that the proposed transfer is very desirable from the point of view of the welfare of the city of Escondido. These witnesses referred to the advantage which would accrue to the people of Escondido from the more adequate and reliable service which can be rendered by San Diego Consolidated Gas and Electric Company and from the more liberal policy with reference to extensions which the San Diego company will be able to pursue. These witnesses all regarded the rates to be established by San Diego Consolidated Gas and Electric Company as being reasonable. All the witnesses strongly urged the granting of the petitions herein.

There was also filed herein as Exhibit No. 7 of petitioners, a copy of a resolution adopted by the directors of the Escondido Chamber of Commerce on February 2, 1917, asking the Railroad Commission to approve the proposed transfer and pledging support to San Diego Consolidated Gas and Electric Company in whatever the company may do in assisting in the upbuilding of Escondido.

I am satisfied that the public interest will be served by the granting of these petitions and submit the following form of order:

ORDER.

Los Angeles Trust and Savings Bank, Mary K. Wohlford and San Diego Consolidated Gas and Electric Company having made application to the Railroad Commission for orders as specified in the opinion which precedes this order, public hearings having been held and these proceedings being now ready for decision,

It is hereby ordered that Los Angeles Trust and Savings Bank is hereby authorized to convey to Mary K. Wohlford and Mary K. Wohlford is hereby authorized to convey to San Diego Consolidated Gas and Electric Company the gas and electric properties in the city of Escondido formerly owned by Escondido Utilities Company, as said properties are described in Exhibit "A" which is attached to and made a part of this order, and San Diego Consolidated Gas and Electric Company is authorized to issue its first mortgage 5 per cent bonds of the face value of \$30,000.00 and its preferred capital stock of the par value of \$10,000.00 and to apply the proceeds on the purchase price of said properties, all on the following conditions and not otherwise, to wit:

1. Before the authority herein granted to transfer said properties to San Diego Consolidated Gas and Electric Company shall become effective, San Diego Consolidated Gas and Electric Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it and they will never claim for the franchises to be acquired by said company in connection with the gas and electric properties in Escondido any value in excess of the amount paid for said franchises by the original grantee thereof to the public authority or authorities granting the same, which price shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order herein, declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

2. The price which San Diego Consolidated Gas and Electric Company is paying for the properties which are to be conveyed to it shall never be urged before the Railroad Commission or any other public authority as representing for rate-making or any other purpose the fair value of said property.

3. Within thirty (30) days after the date of the order herein, or after the execution and delivery of the instruments of conveyance herein provided for, San Diego Consolidated Gas and Electric Company shall file with the Railroad Commission a certified copy of the deed of conveyance from Los Angeles Trust and Savings Bank, trustee, to Mary K. Wohlford and of the deed of conveyance from Mary K. Wohlford to San Diego Consolidated Gas and Electric Company.

4. The rates to be charged by San Diego Consolidated Gas and Electric Company for gas and electric energy sold in the city of Escondido shall not exceed the rates specified in the opinion which precedes this order, unless the consent of the Railroad Commission has been first secured.

5. San Diego Consolidated Gas and Electric Company shall sell the bonds herein authorized to be issued at not less than 95 per cent of their face value, plus accrued interest, and the preferred stock at not less than par and shall apply the proceeds from the sale of said bonds and preferred stock on the purchase price of said gas and electric properties in the city of Escondido, the total amount to be paid for said properties not to exceed the sum of \$40,000.00.

6. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the bonds and preferred stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission stating the sale or sales of said bonds and preferred stock during the preceding month, the terms and conditions of sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority hereby given to issue bonds shall not become effective until San Diego Consolidated Gas and Electric Company has paid the fee specified in the Public Utilities Act.

8. The authority hereby given to convey property and issue bonds and preferred stock shall apply only to such instruments of conveyance as have been executed and delivered and such bonds and preferred stock as shall have been issued on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of February, 1917.

EXHIBIT "A."

All that real and personal property situate in the city of Escondido, county of San Diego, State of California, and particularly described as follows:

All that portion of lots one (1), two (2), three (3), four (4), five (5), six (6) and seven (7), lying west of the right of way of the California Southern Railroad, in block ninety (90) in the city of Escondido, according to map thereof No. 336 filed in the office of the County Recorder of said San Diego County, July 10, 1886.

Also all franchises, whether granted by any municipality or otherwise, held or acquired, and all easements and rights of way formerly held, owned or controlled by the Escondido Utilities Company.

All that personal property situated on that portion of lots one (1), two (2), three (3), four (4), five (5), six (6) and seven (7), lying west of the right of

way of the California Southern Railroad in block ninety (90) in the City of Escondido, County of San Diego, State of California, according to a map thereof No. 336 filed in the office of the County Recorder of said San Diego County, July 10, 1886; together with all poles, wires, insulators, transformers, engines, boilers, fixtures, gas generators, and all other personal property used in and about the plant for generating electricity, and the plant or system used for the generating of gas.

Together with all other real and personal property of every nature and description formerly belonging to said Escondido Utilities Company, wherever the same may be situated and whether the same is specifically enumerated hereinabove or not.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

Decisions Nos. 4099, 4100, 4101, grade crossings; not printed. See end of volume.

DECISION No. 4102.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER FOR PERMISSION TO TAKE UP AND REMOVE AND TO SUSPEND OPERATION FOR THE PERIOD OF FIVE (5) YEARS OF PORTIONS OF ITS STREET RAILWAY SYSTEM IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

Application No. 2704.

Decided February 15, 1917.

BY THE COMMISSION.

ORDER.

San Francisco-Oakland Terminal Railways having made application to this commission for permission to suspend operation and take up and remove for a period of five years, without prejudice to the resumption of operation at any time within said period, that portion of its single track line of street railway commencing at the southerly boundary line of the limits of the city of Richmond and running thence in a northerly direction along San Pablo avenue to and across the tracks of The Atchison, Topeka and Santa Fe Railway where said tracks cross San Pablo avenue, a distance of fifty-seven and five-tenths (57.5) feet, more or less, the permission of the city council of the city of Richmond having been secured consenting to such abandonment and suspension of operation as evidenced by a minute order passed under date December 18, 1916; an inspection of the track proposed to be abandoned having been made and the commission being of the opinion that this is not a matter in which a public hearing is necessary,

It is hereby ordered that this application be and the same hereby is granted, without prejudice to the resumption of service by the applicant, San Francisco-Oakland Terminal Railways, at any time within the five-year period for which suspension of operation and removal of track is requested.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4103.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AUTHORITY TO REVISE OR REISSUE ITS WORKING TIME-TABLE No. 50.

Application No. 2655.

Decided February 15, 1917.

Applicant granted permission to discontinue service of trains Nos. 13 and 14, provided that at least five days' notice of such discontinuance be posted in all agency and nonagency stations.

James E. Kelby, for Applicant.

GORDON, *Commissioner*.

OPINION.

This is an application by the Los Angeles and Salt Lake Railroad Company for an order of the commission permitting the discontinuance of local passenger trains Nos. 13 westbound and 14 eastbound, now operated between Los Angeles and San Bernardino, it being alleged that the business handled on these trains is not producing revenue equal to the cost of operation and that adequate and convenient service is available for passengers by other railroad lines and by automobile stages.

A public hearing was held at Riverside on February 13, 1917, the matter was submitted and is now ready for decision.

At the hearing of this application the Los Angeles and Salt Lake Railroad Company presented testimony as to the travel on the trains proposed to be abandoned, and that no objection had been received from their regular patrons to the proposed discontinuance of these trains.

All interested parties were notified of the hearing to be held in the matter of this application, notices were posted at all agency and non-agency points and were sent to the several chambers of commerce at Los Angeles, San Bernardino, Riverside, Colton, Ontario and Pomona. There was no appearance at the hearing protesting against the granting of the application.

In view of the fact that the public will be adequately served by other transportation companies and by automobile stages; that the operation of the trains proposed to be abandoned has been conducted at a loss, and that no protestant appeared against the abandonment of train service as sought, I shall recommend that the application be granted.

ORDER.

San Pedro, Los Angeles and Salt Lake Railroad Company having made application for permission to revise or reissue its working time-

table No. 50, a public hearing having been held, the matter duly submitted and the commission being fully advised in the premises,

It is hereby ordered that the application requesting the abandonment of passenger trains Nos. 13 and 14, between Los Angeles and San Bernardino be and the same hereby is granted, and that at least five days' notice of the discontinuance of service be posted in all agency stations and at nonagency stops prior to the date upon which trains are discontinued as authorized by the granting of this application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4104.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY WILL REQUIRE THE EXERCISE BY IT OF CERTAIN RIGHTS AND PRIVILEGES UNDER A PROPOSED FRANCHISE FROM THE COUNTY OF TRINITY.

Application No. 2646.

Decided February 15, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Western States Gas and Electric Company having filed with this commission the stipulation provided for in the original order in the above entitled application, dated January 30, 1917 (Decision No. 4066), in form and substance satisfactory to this commission so far as may be necessary for the purpose of this proceeding, the Railroad Commission hereby finds as a fact that Western States Gas and Electric Company has complied with the conditions of said order in Decision No. 4066.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4105.

IN THE MATTER OF THE APPLICATION OF BAY POINT LIGHT AND
WATER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF
CERTAIN PROPERTIES TO BAY POINT UTILITIES COMPANY.

Application No. 2648.

IN THE MATTER OF THE APPLICATION OF BAY POINT UTILITIES
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 2647.

Decided February 15, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas applicants in the above entitled matters have filed a supplemental petition requesting a slight modification in the description of the property which this commission, by its original order in the above entitled matters, dated December 23, 1916 (Decision No. 3948), authorized Bay Point Light and Water Company to sell, transfer and convey to Bay Point Utilities Company, and good cause appearing therefor,

It is hereby ordered that said original order in the above entitled matters be amended by adding to the description of said property to be conveyed, which is designated as "Exhibit A," and annexed to and incorporated into said order, after the words "Approximate Accounts Receivable—\$940.00," the following:

"Together with all the property, real, personal and mixed,
owned by Bay Point Light and Water Company excepting only its
Distribution lines
Transformers
Electric services
Meters
Transmission lines, and
Easements for the transmission of light and power";

And it further appearing that Bay Point Light and Water Company has now filed with this commission the stipulation provided for by the terms of the original order in the above entitled matters (Decision No. 3948), in form and substance satisfactory to this commission so far as may be necessary for the purpose of this proceeding, the Railroad Commission hereby finds as a fact that Bay Point Light and Water Company has complied with the conditions of its said order in Decision No. 3948.

It is hereby further ordered that all the provisions of said order in the above entitled matters, dated December 23, 1916 (Decision No. 3948), shall remain in full force and effect except as modified or amended by this order.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4106.

SAN FRANCISCO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY AND McCLOUD RIVER RAILROAD
COMPANY.

Case No. 485.

McCORMICK SAELTZER COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY AND McCLOUD RIVER RAILROAD
COMPANY.

Case No. 580.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO CLASS
RATES OF SOUTHERN PACIFIC COMPANY, BETWEEN ALL POINTS
SAN FRANCISCO-SAN JOSE AND POINTS NORTH THEREOF TO
AND INCLUDING THE OREGON STATE LINE.

Case No. 686.*Decided February 15, 1917.*

1. The Railroad Commission, in establishing intrastate rates must give sole consideration to a just and reasonable schedule and can not be influenced by the fact that such schedule of just and reasonable rates, when established, might possibly indirectly affect interstate rates.
 2. The fact that first-class rates are depressed between certain points to meet water competition does not justify a spread of rates for the lower classes, which is higher than normal rates for such classes between points of equal distance where no water competition exists.
 3. The fact that the establishment of reasonable class rates might possibly affect commodity rates can have no tendency to alter such schedule, for commodity rates, when in excess of reasonable class rates, are excessive and the class rates will prevail.
 4. A base rate of 6 cents per hundred pounds, first class, for distances five miles and under is not unreasonably low and will produce a fair return upon the investment.
- Defendant's petition that a rehearing be granted in the above-entitled matters denied. Additional rates established for distances 500 to 550 miles and effective date of order extending to and including March 4, 1917.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

This is an application of the Southern Pacific Company for a rehearing in the above entitled cases.

The commission's Decision No. 3847, rendered November 4, 1916, prescribed a schedule of class rates which it had determined were just and reasonable and ordered such rates established, to become effective on or before sixty days from the date of the order. On December 30, 1916, the effective date of the order was extended to and including February 4, 1917.

Seven reasons are urged by the petitioner as to why a rehearing should be granted:

Petitioner first refers to the influence or effect which the California intrastate rates may have upon interstate rates and earnings and draws the conclusion that, because in some instances a combination of the proposed California rates and the interstate rates will break down through interstate rates, the order of this commission interferes with interstate traffic, and is, therefore, in violation of section 8, paragraph 3 of Article I of the constitution of the United States. The commission in fixing the rates in these cases had in mind and gave consideration solely to just and reasonable rates for intrastate traffic. If just and reasonable rates for intrastate traffic have been fixed, and we think they have, we believe we are not limited and restricted by reason of the fact that in some instances interstate rates are indirectly affected.

Reference is made to the fact that the interstate class rates from Portland, Oregon, to northern California points have been called into question by the Portland Transportation and Traffic Association. This action, however, is dated October 26, 1916, and was filed with the Interstate Commerce Commission October 31, 1916, and, therefore, was not influenced by our decision of November 4, 1916.

As a second reason why a rehearing should be granted, petitioner asserts that the commission's order went beyond the authority given by the constitution of the state and by the Public Utilities Act in undertaking to establish absolute maximum rates. Article XII, section 22, of the state constitution, empowers the commission

“To establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies.”

Nothing is said in the constitution with reference to reasonable rates or maximum rates, although the first is inferred.

Section 32 (a) of the Public Utilities Act recites, in part:

“The commission shall determine the just, reasonable or sufficient rates * * * to be hereafter observed and in force and shall fix the same by order as hereafter provided.”

Notwithstanding petitioner's statement to the contrary the decision and order did not establish absolute maximum rates, but did establish a scale of just, reasonable and sufficient rates for the distances indicated. Rates lower than those in the scale set forth in the decision were voluntarily established by defendant and are alleged by it to be less than normal, due to actual water and other competition.

It is urged by petitioner that no changes should be made south of Red Bluff, it being claimed that the rates in this territory were depressed to meet water competition, and petitioner in substance contends that none of the rates should be reduced because the classes are

spread to meet this competition. With this position we can not agree; where any of the rates are higher than normal they should be reduced. Even the fact that a first-class rate is depressed between certain points to meet water competition does not justify a spread of rates for the lower classes which is higher than normal rates for such classes between points of equal distance where no water competition exists.

The proposed mileage scale, while making some reductions at points on the west side of the Sacramento Valley where the water-compelled rates are not in effect, makes no reductions at all in the first-class rates between San Francisco and points on the east side of the valley south of Tehama where the water competition exists, and from Tehama to Red Bluff there are only three reductions in first class, viz, at Gerber from 62 to 60 and at Rawson and Red Bluff from 64 to 62 cents per hundred pounds. The present first-class rate of 64 cents between San Francisco and Red Bluff was reduced by defendant December 6, 1913, from 69 cents, and this change was apparently made without giving consideration to the water competition which is now so strongly urged.

The testimony in the cases at bar is conclusive to the effect that the operating conditions in the Sacramento Valley as far north as Red Bluff are no different from those in the San Joaquin Valley as far south as Bakersfield; therefore, no good reasons exist for establishing any rates higher in one territory than in the other.

Since in this case this commission does not give consideration to rates forced down by competitive conditions, such rates of the defendant lower than those set forth in the proposed mileage class scale were not disturbed. The rates in the mileage schedule will compare favorably with rates established by this commission in other parts of California where the circumstances and conditions are similar.

As a third reason, petitioner alleges that the order is beyond the issues framed, and that the prescribed class rates will have the effect of causing reductions in commodity rates.

We do not consider this point well taken, for, while it is true that the commission in Case No. 686 called into question only the class rates, it must necessarily follow that commodity rates, when higher than reasonable class rates, are excessive and that class rates will prevail, in conformity with this commission's Rule 8 of Tariff Circular No. 2, effective August 1, 1912.

A fourth reason given for a rehearing is based on the allegation that the decision and order are predicated upon a mistake of law and that no evidence was introduced relating to the inherent unreasonableness of the rates, but only with reference to their relative reasonableness.

Petitioner makes reference to colloquy, at the original hearing July 29, 1914, in Cases 480 and 585, between Commissioner Eshleman and Mr.

Bradley of Sacramento, and reaches the conclusion that the commissioner was of the opinion that the cases only called into question the relative reasonableness of the rates and not their reasonableness *per se*. This conclusion is refuted by an analysis of the entire discussion and particularly by Commissioner Eshleman's remarks, found on page 72 of the transcript, viz:

"The commission, in the San Joaquin Valley case, early in their history went on record as to the point that the relationship of rates would not be considered at all independent of a relationship which grew up in fixing reasonable rates, in every event; and if you will recall the case, that was one of the points that counsel brought forward; and there was a great amount of controversy in that case and we took that position, and we haven't receded from that position and I don't propose to do so now. If by fixing reasonable rates from San Francisco there is an unjust discrimination against you it must be because of the fact that you don't have reasonable rates from Sacramento and not because the relationship has been disturbed. And that is the position we have taken, and there is only one of two courses open to you: Either wait to see what is done with the Sacramento rate and San Francisco rate, and after that is done, if it reduces the rates, then pay your present rates until you can make complaint before the commission and get them reduced; or at this time ask for reasonable rates to be put in from Sacramento north, because the carriers must at least, and in justice to them also, have an opportunity to have their rates contested, and the rates from Sacramento north have not been put in issue."

Case No. 686, instituted by the commission September 29, 1914, called all rates, main line and branches, into question, thus enlarging the complaints in the other two cases, which complained only of certain rates. This being true, defendant was put upon guard to defend its rate structure and was not taken unawares, but had every opportunity to justify the different rates contained in its schedules.

The commission, after a thorough and prolonged investigation and a careful study of the many exhibits, not only found defendant's rates relatively unreasonable, but unreasonable *per se*.

As a fifth reason for requesting a rehearing, it is alleged that the rates prescribed are so low as to be confiscatory and, therefore, in violation of the fourteenth amendment to the constitution of the United States. We think this contention is without merit, and that the rates prescribed in the order are fair, just and reasonable.

Petitioner further alleges that the base rate of 6 cents per hundred pounds, first class, for distances five miles and under, is unreasonably low and will not produce a profit upon its investment.

In connection with Case No. 686, the commission introduced a large number of exhibits making rate comparisons. The low rates set forth in the exhibits have been in effect for a great number of years, were

voluntarily established by defendant, and have been continually maintained. These rates are not confined to the valleys; they also apply in mountainous territory.

The following tabulation illustrates the situation:

Miles	Between—	And—	1	2	3	4	5	A	B	C	D	E
3.9	Marysville	Berg	5	5	5	4	4	4	3	2½	2½	2½
7.1	Chico	Nord	6	5	5	4	4	4	3	2½	2½	2½
12.7	Marysville	Wheatland	6	5	5	4	4	4	3	2½	2½	2½
4.1	Arbuckle	Genevra	5	5	5	5	4	4	4	4	3½	3½
3.0	Sacramento	Elvas	6	6	6	5	4	4	4	4	3½	3½
6.3	Roseville	Whitney	6	6	6	5	4	4	4	4	3½	3½
4.2	Elmira	Vacaville	5	5	5	5	4	4	4	4	3½	3½
4.7	Redding	Girvan	5	5	5	4	4	4	3	2½	2½	2½
2.8	Redding	Middle Creek	5	5	5	4	4	4	3	2½	2½	2½
4.4	Hornbrook	Zuleka	5	5	5	5	4	4	4	4	3½	3½
2.4	Sisson	Upton	5	5	5	5	4	4	4	4	3½	3½
0.8	Brighton	Ramona	5	5	5	5	4	4	4	3½	3	2½
6.4	Niles	Sunol	5	5	5	5	4	4	4	4	3½	3½

A 6-cent base rate was formally established by this commission March 28, 1912, in Case No. 116, commonly known as the San Joaquin Valley rate case, and the rates established in that decision were not contested.

We were not influenced, as petitioner's application would imply, by the immediate effect such just and reasonable rates would have upon defendant's total gross revenue, but based our conclusions, as heretofore stated, upon a consideration of all the evidence and exhibits. The commission is convinced that it has fixed just and reasonable rates and that such rates bear a proper relationship to the service rendered, also that they are comparable with those in effect between other points in California similarly situated, established by the commission and not contested or voluntarily put in by carriers.

The petitioner's sixth contention is that the decision and order are contrary to the evidence. We have gone carefully through the records and made a study of the transcripts, and it is clearly apparent that the decision and order are not at variance with the evidence.

As a seventh reason for asking a rehearing, petitioner asserts that the decision and order are in violation of the constitution of the State of California and the Public Utilities Act, inasmuch as the commission did not indulge the presumption that the rates complained of were reasonable until proven to be unreasonable or discriminatory and that there was no proper evidence before the commission to warrant the findings.

Case No. 686 was instituted September 29, 1914, upon the commission's own motion and it would seem that our position was clearly set forth in the order which read, in part, as follows:

"And it is further ordered that the secretary of this commission be and he is hereby directed to serve upon the Southern Pacific Company a certified copy of this order * * * to show cause why this commission should not establish just and reasonable class rates to be charged by the Southern Pacific Company * * * if it shall appear that the existing class rates or any thereof are excessive, unjust, unreasonable or discriminatory."

Certainly this petitioner was given every opportunity to prove the reasonableness of its rates and this commission only reached the conclusion that the rates were unreasonable after a most exhaustive study of all the testimony and exhibits introduced at the many hearings in the three cases.

Petitioner contends constructive mileage should have been allowed on the following lines:

Knights Landing Branch—Woodland to Marysville.

Howard Branch—Peart to Howard.

Oroville Branch—Marysville to Oroville.

Stirling City Branch—Chico to Stirling City.

Colusa-Hamilton Branch—Harrington to Glenn, and under construction from Glenn to Hamilton.

The commission is of the opinion that the line from Woodland to Oroville, referred to by petitioner as Knights Landing and Oroville branches, should be considered main line, and, therefore, the mileage should not be equated.

The Howard Branch, extending from Peart to Howard, is but 1.7 miles long and equated mileage for this insignificant distance would have no effect on the rates. The Stirling City and Colusa-Hamilton branches were not involved in these proceedings. The former, at the time these cases were heard, was an independent carrier, operating under the name of the Butte County Railroad, while the latter lines were under construction and are still being operated by the construction department.

The rates established in the order heretofore made in these proceedings are based on actual short line mileage. Southern Pacific Company's Distance Table No. 420-B, C. R. C. No. 1857, shows mileage as from San Francisco (Ferry Building), but defendant, in computing the freight rates, should apply actual short line mileage from freight depot San Francisco (Fourth and King streets). This distance, according to testimony, is 7.04 miles from San Francisco (Fourth and King streets) to Oakland (Fifth and Kirkham streets) and 6.34 miles to West Oakland.

We have given careful consideration to each of defendant's reasons, as set forth in the petition for a rehearing, and have also considered the offer of defendant to produce further testimony, but find nothing referred to which was not given full consideration prior to the rendering of Decision No. 3847 on November 4, 1916. The petition for a rehearing should be denied.

ORDER.

The Southern Pacific Company having filed a petition for a rehearing in the above entitled proceedings and consideration having been given thereto, and no good reason appearing why such petition should be granted,

It is hereby ordered that said petition for rehearing be and the same is hereby denied.

It is hereby further ordered that the following distances and rates be added to and made a part of Schedule No. 1 of the original order:

Over 500 miles, not over 510 miles.....	99	84	69	62	57	57	40	30	25	20
Over 510 miles, not over 520 miles.....	100	85	70	63	58	58	40	30	25	20
Over 520 miles, not over 530 miles.....	101	86	71	63	58	58	40	30	25	20
Over 530 miles, not over 540 miles.....	102	87	71	64	59	59	41	31	26	20
Over 540 miles, not over 550 miles.....	103	88	72	64	59	59	41	31	26	21

It is hereby further ordered that the effective date of the order heretofore entered in the above entitled proceedings on November 4, 1916, be and the same is hereby extended to and including March 4, 1917.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4107.

ANDERSON VALLEY HOME TELEPHONE COMPANY

vs.

BOONVILLE RURAL TELEPHONE COMPANY.

Case No. 1024.

Decided February 15, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant by its attorneys having requested in writing under date of February 12, 1917, that the complaint in the above case be dismissed,

It is hereby ordered by the Railroad Commission of the State of California that the complaint in the above case be and it is hereby dismissed.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4108.

IN THE MATTER OF THE APPLICATION OF THE CITY WATER COMPANY OF OCEAN PARK FOR ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2712.

Decided February 15, 1917.

Applicant authorized to execute a mortgage securing a bond issue of \$50,000.00 and to issue thereunder \$30,000.00 face value of 6 per cent bonds of which amount \$2,000.00 face value shall be used in exchange for a like face value of outstanding bonds, the balance to be sold at not less than 98, proceeds used in the retirement of outstanding notes.

James E. Shelton, for Applicant.

Earl M. Leaf, for Title Insurance and Trust Company.

BY THE COMMISSION.

OPINION.

A public hearing on above application was held in Los Angeles, February 1, 1917, being conducted by Myron Westover, examiner.

City Water Company of Ocean Park, now operating a domestic water system in Venice, Los Angeles County, with about 1,800 services, partly metered, formerly also operated its system in Santa Monica, the adjoining municipality.

Pursuant to authority granted by the commission by Decision No. 3612 of September 1, 1916, applicant sold to the city of Santa Monica that portion of its system lying within the limits of that city and applied the proceeds of the sale to the retirement of its bonded indebtedness of \$150,000.00 face value. It had previously retired \$9,000.00 face value of bonds. For the purpose of paying off the remainder of its indebtedness at the time of the sale to the city of Santa Monica, applicant issued notes in the principal sum of \$28,302.00 as shown in the order herein.

Applicant now wishes to mortgage its remaining property to secure the payment of a bonded indebtedness of \$50,000.00 face value and issue \$30,000.00 thereof now, \$2,000.00 face value to be exchanged for \$2,000.00 face value of its old bonds, which have been deposited for exchange, and the proceeds of the sale of \$28,000.00 face value of bonds to be applied in refunding the notes referred to.

By stipulation, the records in the three proceedings in which the commission fixed applicant's rates, granted authority to applicant to sell part of its system, and fixed the value thereof, were introduced in evidence at the hearing upon this application. (See Opinions and Orders Railroad Commission of California, Vol. 7, p. 423, Decision No. 2543, p. 463, Decision No. 2548, and Decision No. 3612 of September 1, 1916.)

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In Case No. 700, Decision No. 2543, first above referred to, Mr. Jas. Armstrong, one of the commission's assistant engineers, made an appraisal therein showing the reproduction cost new of applicant's properties located in the city of Venice to have been as of January 1, 1915, \$111,598.00. Using this figure as a basis, the estimated reproduction cost new of applicant's present plant as of January 1, 1917, is shown in the following table:

<i>Estimated reproduction cost new as of January 1, 1917.</i>	
Physical structures, as of January 1, 1915-----	\$111,598 00
Additions and betterments in 1915-----	5,704 75
Additions and betterments in 1916-----	5,878 77
*Purchase Ocean Park Water Company's plant-----	6,786 42
Total -----	\$129,967 94
*Less additions and betterments made to plant in Santa Monica in 1915 and 1916 -----	1,975 80
	\$127,992 14
Present value of real estate as per testimony-----	8,700 00
	\$136,692 14

In the former appraisal no estimate of accrued depreciation was made. However, one pumping plant was installed in 1912 and the other in 1913, at a total cost for both of about \$31,000.00. These plants are in very good condition. The main distribution and transmission lines are principally of cast iron installed within the last few years, at a cost of about \$40,000.00. The smaller distribution lines principally of casing and standard pipe, installed at various times, are in only fair condition. The installation of meters is recent. Taken as a whole, the main plant investment is comparatively new, and in reasonably good condition.

Applicant reports for its entire plant, operating revenue and expenses for the year 1916:

<i>Gross Revenue.</i>	
Santa Monica -----	\$11,369 65
Venice -----	33,381 10
Total gross revenue -----	\$44,750 75
Operating expenses including taxes -----	26,377 44
Net operating revenue before deducting depreciation-----	\$18,373 31

Estimates of net revenue for the year 1917, based on the 1916 gross revenue from the plant in Venice, and estimated reductions in operating expenses, with proper allowance for an annual depreciation reserve calculated upon a 4 per cent sinking fund basis, indicate that applicant may expect to earn at present rates about three times the interest on the \$50,000.00 of bonds which it seeks authorization for.

*See Decision No. 3612.

Applicant has no indebtedness other than the notes shown in the order except for current bills and a judgment for \$800.00 recently rendered in a personal injury suit, from which judgment applicant expects to appeal.

ORDER.

City Water Company of Ocean Park having applied to the Railroad Commission for authority to mortgage its property to secure the payment of \$50,000.00 face value in first mortgage 6 per cent gold bonds, to mature serially on the dates shown below, and to issue \$30,000.00 face value of said bonds; \$2,000.00 face value thereof for the purpose of refunding the remaining \$2,000.00 face value of its present bonded indebtedness and \$28,000.00 face value thereof to be used in refunding the notes described below;

And a public hearing having been held thereon, and the commission being of the opinion that the money to be procured by such issue is reasonably required for the purposes specified herein, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered by the Railroad Commission of the State of California that City Water Company of Ocean Park be, and it is hereby, authorized to mortgage all of its plant and system, including real estate situated in the city of Venice, county of Los Angeles, State of California, described as follows:

Parcel 1. Lot twenty (20) in Block "G" of the Vawter Ocean Park Tract, as per map recorded in book 7, page 33, of maps, in the office of the county recorder of said county.

Parcel 2. Lot seven (7) of the subdivision of the allotment to the heirs of Martina M. de Cota, as per map recorded in book 55, page 4, miscellaneous records of said county,—

to secure the payment of its fifty (50) first mortgage gold bonds of the face value of \$1,000.00 each, bearing interest at the rate of six (6) per cent per annum, the principal of said bonds being payable as follows:

Bonds numbered 1 to 5, inclusive, on January 1, 1921;
 Bonds numbered 6 to 10, inclusive, on January 1, 1922;
 Bonds numbered 11 to 15, inclusive, on January 1, 1923;
 Bonds numbered 16 to 20, inclusive, on January 1, 1924;
 Bonds numbered 21 to 25, inclusive, on January 1, 1925;
 Bonds numbered 26 to 30, inclusive, on January 1, 1926;
 Bonds numbered 31 to 35, inclusive, on January 1, 1927;
 Bonds numbered 36 to 40, inclusive, on January 1, 1928;
 Bonds numbered 41 to 45, inclusive, on January 1, 1929;
 Bonds numbered 46 to 50, inclusive, on January 1, 1930.

Provided the form of said mortgage or deed of trust is first approved by supplemental order herein.

It is further ordered that applicant be, and it is hereby, authorized to issue \$30,000.00 face value of its said bonds, and to exchange \$2,000.00

face value thereof for \$2,000.00 face value of its bonded indebtedness now remaining outstanding, but only upon the cancellation and surrender of said bonds refunded; and to sell \$28,000.00 face value of said bonds at not less than ninety-eight (98) per cent of their face value and use the proceeds of said sale in refunding applicant's six (6) per cent notes, described as follows:

Date	Payee	Maturity	Amount
Sept. 1, 1916	Ocean Park Bank.....	Dec. 1, 1916	\$3,500
Sept. 11, 1916	Security National Bank of Los Angeles..	Ninety days	5,000
Sept. 11, 1916	Ocean Park Bank.....	Dec. 11, 1916	4,000
-----	Olive B. Jones.....	Dec. 11, 1916	12,802
-----	Olive B. Jones.....	Dec. 18, 1916	3,000

The authority herein granted is granted upon the following conditions:

1. The authority herein granted shall not be considered or treated in any proceeding before this commission, or any other tribunal, as a finding by this commission of the value of applicant's property for any purpose other than that of the present application.

2. Applicant shall on or before the twenty-fifth day of each month make verified reports to the Railroad Commission, showing disposition of bonds and application of proceeds, as required by the commission in its General Order No. 24, which order, so far as applicable, is made a part of this order.

3. The authority to issue bonds shall apply only to such bonds as may be issued within ninety (90) days from the date hereof.

4. The authority herein granted to issue bonds shall not become effective until the fees specified in the Public Utilities Act therefor be paid.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4109.

IN THE MATTER OF THE APPLICATION OF MARIN MUNICIPAL WATER DISTRICT FOR AN ORDER OF THE RAILROAD COMMISSION FIXING AND DETERMINING THE JUST COMPENSATION TO BE PAID TO MARIN WATER AND POWER COMPANY FOR ITS LANDS, PROPERTY, AND RIGHTS.

Application No. 1141.

Decided February 15, 1917.

1. A detailed description of property to be valued for condemnation purposes "together with all properties built and building or to be built subsequent to the making of the list * * *" is sufficiently adequate to include a few scattered items of property such as detached pieces of pipe, etc. A supplemental finding of value to include such property is not necessary.

2. The Railroad Commission has no jurisdiction to make an order, at a subsequent date, in connection with expenditures made by a utility prior to the date upon which the commission's findings were issued.
3. When a valuation of public utility property is established by the commission, upon petition of a municipal water district or other public authorities, such findings shall be deemed final and conclusive. However the commission may, under certain conditions, subsequently certify to the Superior Court, such amounts as it may deem proper, to be either added or subtracted from the original findings.
4. Section 70 of the Public Utilities Act, providing that the commission shall hold hearings from time to time for the purpose of ascertaining the value of betterments and improvements made subsequent to any prior hearings, has reference only to valuations made for rate making purposes, security issues, etc., and not to valuations for condemnation purposes in which there is a finality of proceedings resulting in the transfer of the property to a public authority.
5. To secure additional compensation a utility must show a loss incurred through its being obligated to preserve its property between the time judgment in condemnation becomes final and the time of payment of compensation. Such additional compensation shall not include additions and betterments made in the ordinary course of business.
6. The Railroad Commission has no jurisdiction over agreements into which a water district and a utility may desire to enter with reference to improvements made by the utility subsequent to the valuation of its properties, for which the water district feels inclined to give additional compensation.
7. A utility is not entitled to additional compensation covering taxes paid, for, while it is still in possession of its property it is in receipt of rates sufficient to cover operating expenses, including taxes, and would, in effect, be twice compensated for the same item.
8. After judgment has been rendered in a condemnation action the commission has no jurisdiction to entertain a proceeding for a general revaluation of the properties to be transferred.
9. A water district that has acquired the property of a utility through condemnation proceedings, is not entitled to damages account of failure on the part of the utility to deliver to the water district certain meter books, customers' account books, etc., especially when the district is unable to show that it has been damaged through its failure to receive such books.
10. Compensation heretofore fixed increased by the sum of \$11,775.76, being amount expended for improvements under a stipulation between parties in interest that the water district would absorb such expenses. Allowances for miscellaneous equipment also increased by the sum of \$6,654.47.

George H. Harlan, for Marin Municipal Water District.

Lilienthal, McKinstry & Raymond, by Joseph Haber, Jr., for Marin Water and Power Company.

THELEN, Commissioner.

OPINION ON SUPPLEMENTAL PETITIONS.

The Railroad Commission has before it in this proceeding four supplemental petitions, three having been filed by Marin Water and Power Company, hereinafter referred to as the water company, and the fourth having been filed by Marin Municipal Water District, hereinafter referred to as the water district.

The decision on the original petition of the water district herein was made and filed on April 9, 1915 (Decision No. 2279, Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 507). A petition for rehearing filed by the water company was denied on May 10,

1915 (Decision No. 2368, Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 876). On a review proceeding instituted by the water company, the findings of the Railroad Commission were affirmed by the Supreme Court of this state on January 17, 1916 (171 Cal. 706).

Subsequent to the decision of the Railroad Commission, made and filed on April 9, 1915, the water district filed its complaint in eminent domain in the Superior Court of this state, in and for the county of Marin, this proceeding being numbered Case No. 4495. In this court proceeding, the water district asked the Superior Court to enter its decree condemning to the use of the water district the property of the water company as described in Exhibit A, which was attached to and made a part of the Railroad Commission's findings in said Decision No. 2279. The following proceedings, among others, have been taken in said eminent domain proceedings:

June 5, 1915—Complaint filed.

June 5, 1915—Summons issued.

August 31, 1915—Summons served.

March 25, 1916—Amended answer filed.

March 25, 1916—Trial.

May 27, 1916—Judgment in condemnation entered.

July 25, 1916—Notice of appeal to Supreme Court filed with county clerk of Marin County by water company.

Nov. 1, 1916—Writ of possession issued by Superior Court, award of \$1,200,150.00 paid into court by water district and drawn out by water company, and water district entered into possession of entire property.

The judgment entered on May 27, 1916, provided, in part, that all the property, lands and rights of Marin Water and Power Company as described in the Railroad Commission's decision of April 9, 1915, should be condemned for use as a part of a water works system proposed to be installed and assembled by the water district; that the value of said lands, property and rights is the sum of \$1,200,150.00, being the just compensation found by the Railroad Commission; that said compensation should be paid by the water district to the water company within one year from the entry of the judgment; and that upon the payment of said sum of \$1,200,150.00, or the amount of the judgment as thereafter modified, the water district should be entitled to a final order of condemnation. The judgment further provides as follows:

"It is further ordered, adjudged and decreed that this judgment is subject to modification on account of any unreasonable depreciation or deterioration in value of the value of the property taken, or on account of any loss which may be suffered by the owner of said public utility through being required to properly take care of said property as by section 47 of the Public Utilities Act of the state of California it is required to do."

The four supplemental petitions filed herein will be briefly summarized prior to a detailed consideration of each such petition.

First Supplemental Petition of Water Company (filed October 20, 1916). In this petition the water company asks the Railroad Commission to certify to the Superior Court in said Case No. 4495 the amount of loss alleged to have been suffered by the water company in connection with certain betterments, improvements, additions and extensions to the property of the water company alleged to have been installed both before and after the Railroad Commission's findings of April 9, 1915, and also by reason of the payment by the water company of the general property tax in its property for the fiscal year commencing July 1, 1916, and ending June 30, 1917.

Second Supplemental Petition of Water Company (filed November 29, 1916). In this petition, as amended at the hearing, the water company asks the Railroad Commission to certify to the Superior Court in said Case No. 4495 the additional compensation, if any, to be paid by the water district to the water company in connection with the water company's "miscellaneous equipment, maps, map books, block books, records, pipe lists, inventories and data."

Third Supplemental Petition of Water Company (filed November 29, 1916). In this petition the water company asks the Railroad Commission to make a revaluation of a portion of its property, namely, its physical structures, and thereafter to certify to the Superior Court in said Case No. 4495, such modification of its findings heretofore made as the Railroad Commission may make as the result of such partial revaluation.

Supplemental Petition of Water District (filed December 19, 1916). In this petition the water district asks the Railroad Commission to certify to the Superior Court in said Case No. 4495, the amount of unreasonable depreciation or deterioration in the value of the property of the water company, alleged to have been caused by the failure of the water company to deliver to the water district certain meter books, customers' ledgers, books of account and other records.

Public hearings in these supplemental petitions were held in San Francisco on December 20, 1916, and January 22, 1917. In accordance with stipulation of the parties at these hearings, the water company, by letter of December 29, 1916, filed a statement showing the dates on which the construction work referred to in the water company's first supplemental petition was performed. The letter of December 29, 1916, with enclosures, has been filed as an exhibit herein and marked "Exhibit No. 8 of Marin Water and Power Company on First Supplemental Petition." Briefs have been filed both by the water district and the water company and these proceedings are now ready for decision.

The various supplemental petitions will be considered in the order hereinbefore referred to.

FIRST SUPPLEMENTAL PETITION OF WATER COMPANY.

In its first supplemental petition the water company asks the Railroad Commission to certify to the Superior Court in said Case No. 4495, additional amounts to be paid for various purposes as specified.

1. For "necessary extensions to its distributing system," made between June 30, 1914, and April 5, 1915, \$1,679.33.

These extensions are water mains which were laid in the Short Ranch Tract and in the Cordoni Tract in August, 1914, prior to the Railroad Commission's findings of April 5, 1915.

2. For "necessary extensions to its distributing system pursuant to stipulations entered into by and between it (water company) and the water district," \$11,775.76.

These extensions were made by the water company under stipulation with the water district, the water district agreeing to reimburse the water company in the amount of the actual cost thereof, in the event that the water district should ultimately acquire the water company's properties. These items consist in part of larger water mains substituted for existing water mains, of water mains installed as extensions of existing mains and of a pumping plant for the purpose of improving the water company's supply of water delivered to the state prison at San Quentin. The water district concedes that the claim of \$11,775.76 is proper and joins the water company in asking that this sum be certified by the Railroad Commission to the Superior Court in said Case No. 4495.

3. For "certain other necessary extensions to its distributing system," \$258.68.

These extensions were made without stipulation by the water district. The petition alleges that they were made subsequent to the Railroad Commission's findings of April 9, 1915. The water company's Exhibit No. 8 on first supplemental petition shows that these items, being partly spurs, partly an extension and partly connecting mains, were installed in July and October, 1914, prior to the Railroad Commission's said findings of April 9, 1915.

4. For "certain other betterments, improvements and additions to its plant and system necessary in order to maintain the same as an efficient operating water system," \$33,192.14.

These items likewise were not covered by stipulation of the water district. No attempt was made to secure such stipulation except with reference to items in connection with the construction of Tamalpais dam, as to which the water district refused to enter into a stipulation.

The items entering into the total amount claimed of \$33,192.14 are as follows:

Additions and betterments, June 30, 1914, to October, 1916-----	\$29,059 02
Expenditures in 1915 transferred from maintenance account to capital account -----	947 34
Construction of Tamalpais dam, June, 1914, to November, 1914-----	3,185 78
Total -----	\$33,192 14

As will be observed, these expenditures were incurred in part before the Railroad Commission's findings of April 9, 1915, and in part subsequent thereto. The dates on which these various payments were made are shown in water company's Exhibit No. 8 herein.

5. For "certain other improvements to its plant and system consisting of personal property not affixed thereto, but necessary in order to maintain its system as an efficient operating water system," \$2,470.20.

These are certain items of personal property not covered by stipulation with the water district. The testimony herein does not show when this property was purchased, except that it was acquired subsequent to June 30, 1914.

6. For "general property taxes paid by the water company on its property for the fiscal year ending June 30, 1917, two-thirds of the total amount of \$14,377.48," \$9,584.58.

The foregoing expenditures group themselves naturally into those which were incurred prior to April 9, 1915, the date of the Railroad Commission's findings, and those which were incurred subsequent thereto.

Referring first to the expenditures incurred prior to April 9, 1915, these expenditures cover certain detached items of property, consisting principally of certain cottages at the Tamalpais dam site and two short pipe extensions, concerning which the water company claims that no specific evidence of value was presented to the Railroad Commission in the original proceeding herein.

The Railroad Commission's findings of April 9, 1915, herein, subsequent to the introductory paragraph, read as follows:

"The Railroad Commission hereby finds as a fact that the just compensation to be paid by Marin Municipal Water District to Marin Water and Power Company for all of said company's lands, property and rights, other than the right to be a corporation, is the sum of \$1,200,150.00. The lands, property and rights of Marin Water and Power Company for which said compensation is hereby fixed and determined as just and reasonable, are described in the schedule which is hereto attached, marked 'Exhibit A,' and made a part of these findings."

Said "Exhibit A," in addition to describing in considerable detail the property, both real and personal, intended to be acquired by the water district, continues as follows:

"6. Together with all properties built and building or to be built subsequent to the making of the list by the above engineering firm (referring to an inventory prepared by the J. G. White Engineering Corporation in behalf of the water company) up to the date of the findings and judgment of the Railroad Commission in the above entitled matter."

The property description contained in said "Exhibit A" was the same property description which was filed by the water district as a part of its original petition herein. This property description is clearly adequate to include the few scattered items to which the water company now directs the Railroad Commission's attention herein. Attention should be directed to the fact that the Railroad Commission's findings of April 9, 1915, fixed the just compensation to be paid by the water district for the water company's entire lands, property and rights, viewed as a going concern, and that this finding is not dependent on the estimated reproduction cost new or the estimated reproduction cost new less depreciation of a few detached pieces of pipe or other property.

In connection with the expenditures incurred by the water company prior to April 9, 1915, it will hereinafter further appear that the Railroad Commission has no jurisdiction at this time to make any order. This fact is, of course, conclusive with reference to these items.

A proper discussion of this petition with reference to expenditures incurred by the water company subsequent to April 9, 1915, requires a brief reference to statutory provisions.

Section 1249 of the Code of Civil Procedure of California, reads as follows:

"For the purpose of assessing compensation and damages the right thereof shall be deemed to have accrued at the date of the issuance of summons and its actual value at that date shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken but injuriously affected, in all cases where such damages are allowed as provided in section 1248; provided that in any case in which the issue is not tried within one year after the date of the commencement of the action, unless the delay is caused by the defendant, the compensation and damages shall be deemed to have accrued at the date of the trial. Nothing in this section contained shall be construed or held to affect pending litigation. If an order be made letting the plaintiff into possession, as provided in section 1254, the compensation and damages awarded shall draw lawful interest from the date of such order. No improvements put upon the property subsequent to the date of the service of summons shall be included in the assessment of compensation or damages."

Hence, if the water district had, in the first instance, filed its complaint in eminent domain in the Superior Court, the compensation awarded by the Superior Court would have been determined as of the date of the issue of the summons, and no improvements put upon the property subsequent to the date of the service of the summons could have been included in the assessment of compensation or damages.

The water district, however, chose to come first to the Railroad Commission by filing a petition, as provided by section 47 of the Public Utilities Act. This section establishes a procedure by which the Railroad Commission may determine the just compensation to be paid by municipal water districts and other designated public authorities for the property of public utilities which such municipal water districts and other public authorities may desire to acquire. The section provides, in part, that if such municipal water district or other public authority thereafter files a complaint in the Superior Court asking that a decree of condemnation be entered, the just compensation determined by the Railroad Commission shall be deemed final and conclusive between the parties, and that the Superior Court, if it shall first decide that the public authority has the right and power to take the property, shall enter a decree in favor of the public authority fixing the amount that shall be paid as the amount determined by the Railroad Commission.

Section 47 further provides as follows:

“The judgment (of the Superior Court) shall include a provision, in substance, that said judgment is subject to modification on account of any unreasonable depreciation or deterioration in value of the property taken, or on account of any loss which might be suffered by the owner of said public utility through his being required to properly take care of said property, as is herein-after more fully provided for.”

The section further provides that in the two classes of cases specified in the sentence just quoted, further proceedings may be taken before the Railroad Commission and the Railroad Commission shall thereafter certify to the Superior Court, for insertion in a modified judgment, such amounts as the Railroad Commission may find should be either added to or subtracted from its original findings.

As provided in detail subsequent to the sentence next hereinabove quoted, the proceedings before the Railroad Commission subsequent to the judgment of the Superior Court can be only of the following two classes:

(1) In case of “any unreasonable depreciation or deterioration in value of the property taken,” occurring “between the date of the filing of any such petition (referring to the original petition filed by the public authority) and the payment of the compensation to the owner of the public utility.”

(2) In case of "loss which might have been suffered by the owner of said public utility through his being required to properly take care of said property," such loss being only such loss as occurs "between the time when the judgment in condemnation has become final and the time of the payment of the compensation." The section also refers to such loss as being loss incurred "in order to preserve the property."

The water company, however, urges that under the provisions of section 70 of the Public Utilities Act, the Railroad Commission has the power herein to ascertain the value of betterments, improvements, additions or extensions made by the water company subsequent to the Railroad Commission's findings of April 9, 1915, irrespective of the specific provisions of section 47 of the Public Utilities Act, and thereafter to report such value to the Superior Court. Section 70 of the Public Utilities Act was enacted on December 23, 1911 (chapter 14, extra sessions, 1911), and has not been changed. Section 47 of the Public Utilities Act as enacted on December 23, 1911, consisted only of a single paragraph providing for general valuations without reference to eminent domain proceedings. Thereafter, by act of June 11, 1913 (Statutes 1913, p. 683), section 47 was amended so as to add thereto a procedure for the determination by the Railroad Commission of the just compensation to be paid by public authorities for public utility properties. Section 47, as thus amended, in part prescribes the procedure to be adopted and in part refers to section 70.

The Water company relies on a sentence in section 70 of the Public Utilities Act, reading as follows:

"The commission may from time to time cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any public utility subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made."

The fact that the hearings and investigations thus referred to are to be held "from time to time" would seem to indicate that this sentence must refer to general valuations made, from time to time, for the purpose of rate making or the issue of securities or other matters and not to eminent domain proceedings in which there is a finality of proceedings resulting in the transfer of the property to public authorities over whom the Railroad Commission generally has no jurisdiction.

Furthermore, it would seem entirely clear that in so far as proceedings before the Railroad Commission subsequent to the entry of judgment by the Superior Court are concerned, the specific provisions of section 47 must prevail over the general provisions of section 70.

Attention should further be drawn to the fact that there is no provision either in section 47 or in section 70 for the certification by the Railroad Commission to the Superior Court of any modified findings in any instance except in the two classes of cases provided for in section 47 and hereinbefore referred to.

Hence, in order that the water company may secure hereafter a finding of additional compensation, in so far as the items referred to in its first supplemental petition and not covered by stipulation of the water district are concerned, the water company must, as provided by section 47 of the Public Utilities Act, show that its expenditures were incurred during a specified time, namely, "between the time when the judgment in condemnation has become final and the time of the payment of the compensation," and for the purposes specified in section 47, namely, to meet a loss which was suffered by the water company "through its being required to properly take care of said property," or, as these words are interpreted in a subsequent portion of the statute, a loss suffered "in order to preserve the property."

In the present instance, the water district concedes that the date "when the judgment in condemnation has become final," as those words are used in section 47, was May 27, 1916. The date of the payment of compensation to the water company was November 1, 1916. Hence, the only expenditures as to which the water company may claim additional compensation herein under this head are expenditures incurred between May 27, 1916, and November 1, 1916.

The water company must, further, show a loss incurred through its being required to properly take care of the property or to preserve the property. The meaning of this language is not entirely clear. It would seem obvious that if the statute had intended that the owner of the public utility should be reimbursed for all additions and betterments, such as the installation of additional service connections or of meters, it would have said in apt language that the public utility might secure a supplemental finding from the Railroad Commission specifying the expenditures incurred for "additions and betterments" or for "additions to capital account" during the period specified. I am satisfied that the language referred to was not intended to cover such additions and betterments as the utility might make in the ordinary course of its business, but that its purpose was that the utility should preserve the property as far as possible in its status at the time the petition was filed with the Railroad Commission and that it should not have the power by incurring heavy expenditures for additions and betterments, a part or all of which the public authority would not itself incur, to increase the just compensation to be paid by the public authority. The record herein contains a clear illustration of what I have in mind. The

development plans of the water company contemplated the construction of what is known as the Tamalpais dam, but the development plans of the water district do not contemplate such construction. The water company is asking herein that it be awarded additional compensation to the extent of \$3,185.78 for expenditures incurred on its Tamalpais dam properties, which expenditures would not have been incurred by the water district if it owned the property. I am satisfied that the legislature used the language hereinbefore referred to in a narrower sense than that contended for by the water company herein to mean not ordinary additions and betterments but "losses" incurred by the utility to preserve the property and take care of it in the condition in which it existed when the petition was filed with the Railroad Commission. The water company itself seems to have acted on this view when it required stipulations from the water district before it would proceed to make certain new extensions, to replace existing water pipes with larger water pipes and to install a pumping plant to be used at San Quentin.

With the exception of the item of taxes, to which reference will hereinafter be made, I find that none of the expenditures incurred by the water company between May 27, 1916, and November 1, 1916, were made to take care of "losses—suffered to properly take care of said property" or "to preserve the property." My conclusion is strengthened by the fact that it has been the policy of the state in eminent domain proceedings, as shown by section 1249 of the Code of Civil Procedure, not to include in awards in condemnation, improvements put upon the property subsequent to the date of the service of the summons. The exceptions to this general policy established by section 47 of the Public Utilities Act shall not be construed beyond the fair import of the language used.

In this ruling, the Railroad Commission must not be understood as passing on the question whether the water district can take the improvements installed subsequent to April 9, 1915, without paying for them, or whether the water company has not the right, unless adequate compensation is paid, to remove such additions and betterments. Referring to this point, the water district's brief herein says, in part, that "if, after the commission has made an award which does not give to the company the value of these meters because the commission finds that it has no jurisdiction so to do, the way is still open for the company to get recompense therefor by agreement." These are matters over which the Railroad Commission does not have jurisdiction. In view of said declaration of the water district, we assume that the parties will reach an agreement on fair and equitable terms covering such additions and

betterments installed subsequent to April 9, 1915, as are actually useful to the water district.

Referring now to the question of taxes, the water company shows that it was assessed for taxes on its properties owned on the first Monday in March, 1916, by the town of Sausalito, the town of Ross, the town of San Anselmo, the town of Larkspur, the town of San Rafael, the county of Marin, and the state of California, for the fiscal year commencing July 1, 1916, and ending June 30, 1917, in the sum of \$14,377.48, and that the water company will pay said sum in order to preserve its said properties. The water company claims reimbursement for these taxes during the period from November 1, 1916, to June 30, 1917, in the sum of \$9,584.58. The question here is not whether the water company would be entitled to taxes in case this proceeding had in the first instance been brought in the Superior Court but, rather, whether under the specific provisions of section 47 of the Public Utilities Act the water company is entitled to any such reimbursement. The water company's claim that it should be reimbursed for the proportionate part of the taxes which accrue between November 1, 1916, and June 30, 1917, can not be allowed for the reason that no part of this period falls within the language of section 47. The only period which falls within that language is the period from May 27, 1916, to November 1, 1916. During this period, the water company was in possession of the property and received all the revenues from the operation thereof, under rates established by the Railroad Commission sufficient to meet all operating expenses, including taxes, and to yield in addition thereto, a fair return on the fair value of the property used and useful in the public service. If additional compensation were now awarded for that portion of the general property taxes of the water company which accrued between May 27, 1916, and November 1, 1916, the water company would be twice compensated for the same item.

After careful consideration, I recommend that certification be made to the Superior Court in said Case No. 4495, covering the item of \$11,775.76 under the stipulations between the water company and the water district, but that no certification be made with reference to any of the other claims of the water company under its first supplemental petition.

SECOND SUPPLEMENTAL PETITION OF WATER COMPANY.

In its second supplemental petition, as amended at the hearings, the water company asks that the Railroad Commission determine a final value for the water company's miscellaneous equipment and certify to the Superior Court in said Case No. 4495 any excess in such value of the sum of \$25,000.00 heretofore allowed by the Railroad Commission.

The item "Miscellaneous Equipment," as shown in Table I in said Decision No. 2279 of April 9, 1915, contains the following note: "This item is subject to change at time of purchase." No complete inventory of miscellaneous equipment was presented to the Railroad Commission in the original proceeding herein and the compensation allowed under this head was only tentative. Entirely apart from the question whether, under a strict interpretation of section 47 of the Public Utilities Act, an additional allowance for this item can be made as of the time of the purchase, the parties have all assented to and acted upon this disposition of the matter. I believe that good faith now requires that the matter be disposed of as indicated in said decision, and I shall pursue this course. The testimony herein shows no substantial variation in the value of miscellaneous equipment as between April 9, 1915, the date of the Railroad Commission's findings, June 5, 1915, the date of the issue of summons in said Case No. 4495, and November 1, 1916, the date of the entry into possession by the water district.

The water company has presented herein as Exhibit No. 2 on second supplemental petition, an inventory of tools, supplies, vehicles and furniture, and other personal property, as of October 31, 1916, together with an appraisal of the fair value of the property, totaling \$36,974.21.

The testimony shows that certain deductions should be made from the amount thus claimed by the water company. These deductions may be summarized as follows:

1. Property not to be taken by the water district, consisting of one business buggy, certain cattle and office furniture-----	\$1,124 55
2. Duplications of property as shown by Railroad Commission's Exhibit No. 1, as modified by the testimony-----	1,623 83
3. Reductions in valuations -----	2,571 36
Total -----	\$5,319 74

Deducting the sum of \$5,319.74 from the water company's claim of \$36,974.21 leaves the sum of \$31,654.47 as a fair allowance for miscellaneous equipment. This sum being \$6,654.47 in excess of the tentative allowance of \$25,000.00 heretofore made, I recommend that the Railroad Commission certify to the Superior Court this additional sum to be added to the just compensation heretofore determined.

THIRD SUPPLEMENTAL PETITION OF WATER COMPANY.

In its third supplemental petition herein, the water company asks that the Railroad Commission revalue a portion of its properties, namely, its physical structures, and thereafter certify to the Superior Court such additional compensation, if any, as the Railroad Commission may determine as the result of such revaluation.

Attention should first be drawn to the fact that the water company asks a revaluation of only a portion of its property. Mr. J. T. Ryan, testifying in behalf of the water company, stated that due to the abnormally high prices of materials now prevailing, the estimated cost to reproduce the physical structures of the water company would be higher on specified dates subsequent to April 9, 1915, than such estimate would be on April 9, 1915. The water company accordingly asks increased compensation.

This petition seems to overlook the fact that the lands, property and rights of the Water company were considered by the Railroad Commission in their entirety as a going concern and that there is no necessary relationship between engineering estimates of the cost to reproduce the physical structures of the water company as of any specified date and the just compensation to be paid for the property viewed as a going concern. It might well be that the value of a public utility property as a going concern might increase during a period within which the cost to reproduce a portion of its property might become less and, conversely, that the value of the property as a going concern might be diminished during a period within which the estimated cost to reproduce physical structures or other property might increase. There is nothing said in this petition and there was no evidence introduced at the hearing with reference to the other portions of the water company's property or with reference to its value as an entirety as a going concern. For all that appears, the value of the property as a going concern, notwithstanding the abnormal prices of materials, may be no greater now than it was on April 9, 1915.

Furthermore, as hereinbefore shown, the Railroad Commission has no jurisdiction to proceed on such a petition at this time. If the Railroad Commission could have entertained a supplemental petition to revalue the water company's property as of June 5, 1915, the date of the issue of the summons in said Case No. 4495, nevertheless, under the specific provisions of section 47 of the Public Utilities Act, after judgment has been entered in the Superior Court, the Railroad Commission has no jurisdiction to entertain a general revaluation proceeding of this character.

Attention may be drawn to the fact that Mr. Ryan testified that as to physical structures there was no substantial difference in the cost of reproduction as between April 9, 1915, the date of the Railroad Commission's findings herein, and June 5, 1915, the date of the issue of summons in said Case No. 4495.

I recommend that this petition be dismissed.

PETITION OF WATER DISTRICT.

The petition of the water district alleges, in effect, that the water company failed to deliver to the water district certain books known as meter books, customers' ledgers, books of account and other data, which books and data the water district alleges were included in the property described by the Railroad Commission in its findings of April 9, 1915, and that as a result of the failure to deliver such books, the water district has been damaged in the sum of \$15,000.00. The water district asks that this sum be certified to the Superior Court to be deducted from the just compensation heretofore fixed, as unreasonable depreciation or deterioration in value of the property.

Entirely apart from other questions in connection with this petition, it is sufficient to say that the water district confesses inability to show any specific money damage due to the failure of the water company to deliver such books and data. I do not mean to be understood as intimating that any particular portion of such books and data or any thereof should have been delivered by the water company to the water district. In view of the inability of the water district to prove damages, I recommend that on this ground alone, this petition should be dismissed.

I recommend the following form of findings and order:

FINDINGS.

Marin Water and Power Company having filed three supplemental petitions herein and Marin Municipal Water District having filed one supplemental petition herein, all as set forth in the foregoing opinion, public hearings having been held on said petitions, briefs having been filed and said petitions being now ready for decision,

The Railroad Commission hereby finds as a fact that the just compensation heretofore fixed and determined by the Railroad Commission to be paid by Marin Municipal Water District to Marin Water and Power Company for all of said company's lands, property and rights, other than the right to be a corporation, as appears in Decision No. 2279, made and filed on April 9, 1915, in the above entitled proceeding, should be increased in the sum of \$11,775.76, as stipulated between Marin Municipal Water District and Marin Water and Power Company, and in the further sum of \$6,654.47, being additional compensation to be paid for miscellaneous equipment.

ORDER.

It is hereby ordered that in all respects other than as set forth in the findings which precede this order, each of the four supplemental petitions herein shall be and they are hereby dismissed.

It is further ordered that the secretary of the Railroad Commission be and he is hereby directed to transmit to the Superior Court of the state of California, in and for the county of Marin, a copy of the

opinion, findings and order in this decision, certified under the seal of the Railroad Commission, together with advice that to the just compensation of \$1,200,150.00, heretofore fixed and determined by the Railroad Commission to be paid by Marin Municipal Water District for the lands, property, and rights of Marin Water and Power Company, as described in the original petition herein and in Exhibit A, attached to and made a part of the findings of the Railroad Commission of April 9, 1915, there should be added, in such modified judgment as said court may hereafter enter in Case No. 4495, *Marin Municipal Water District, a public corporation, Plaintiff, vs. Marin Water and Power Company, a corporation, Mercantile Trust Company of San Francisco, a corporation, et al., Defendants*, the additional sum of \$18,410.23, consisting of \$11,755.76, as provided by stipulation between Marin Municipal Water District and Marin Water and Power Company, and the sum of \$6,654.47, being additional compensation for miscellaneous equipment.

The foregoing opinion, findings and order are hereby approved and ordered filed as the opinion, findings and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 15th day of February, 1917.

DECISION No. 4110.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY FOR AN ORDER AUTHORIZING THE PLEDGE OF A PORTION OF ITS FIRST MORTGAGE BONDS TO SECURE ITS PROMISSORY NOTE TO COLORADO FUEL AND IRON COMPANY.

Application No. 2758.

Decided February 17, 1917.

Applicant authorized to issue its note in the sum of \$7,393.05, bearing interest at 6 per cent, in payment for certain supplies, also to issue and pledge bonds as security therefor at a ratio of not to exceed 10 to 8.

Leovy & Leovy, for Applicant.

LOVELAND, Commissioner.

OPINION.

This is an application of Los Angeles and San Diego Beach Railway Company for authority to issue a promissory note in the principal sum of \$7,393.05, and to pledge as security therefor its first mortgage 5½ per cent bonds in the ratio of not more than \$100.00 face value of said bonds to each \$80.00 face value of said note.

The applicant purchased certain rails from the Colorado Fuel and Iron Company for \$10,837.08 and has paid part of the principal, leaving a balance remaining of \$7,393.05.

This company has taken steps to reduce its indebtedness and is making arrangements for the security of the remaining creditors.

I recommend that this application be granted and submit the following form of order:

ORDER.

Los Angeles and San Diego Beach Railway Company having applied to this commission for authority to issue a note in the sum of \$7,393.05 and to pledge bonds as collateral therefor, and a hearing having been held, and it appearing that the purposes for which it desires to issue said note or notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be granted authority, and it is hereby granted authority, to issue its promissory note in the sum of \$7,393.05 to Colorado Fuel and Iron Company; said note to be dated February 1, 1917, to be payable at any time within two years and to bear interest at not more than 6 per cent per annum.

It is hereby further ordered that the applicant be granted authority, and it is hereby granted authority, to pledge as collateral for said note its first mortgage 5½ per cent bonds in such ratio that the bonds pledged as security shall at no time be greater than 125 per cent of the face value of the note for which they are pledged as collateral.

The authority herein given is given upon the following conditions, and not otherwise:

1. On or before the twenty-fifth day of each month, applicant shall report to this commission the action taken under this order.

2. When the note herein authorized to be issued shall have been paid, the bonds shall be returned to applicant's treasury and thereafter issued only upon order of this commission.

3. The authority herein given to applicant to issue said note is conditioned upon the payment by applicant of the fee prescribed under the Public Utilities Act.

4. The authority herein given shall apply to such note or notes as shall have been issued on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of February, 1917.

DECISION No. 4111.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING ISSUE AND SALE OF BONDS.

Application No. 808.

Decided February 17, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER No. 12.

Supplemental application having been made by the San Diego and Arizona Railway Company, a corporation, on February 13, 1917, for the approval by the commission of a certain contract, covering grading and construction work from Engineer's Survey Station "E" 334 + 50.1 = "K" 334 + 50.1 to Engineer's Survey Station "E" 600-00 (end of constructed line from Seeley west), being approximately 19.2 miles in length, to be entered into with the Utah Construction Company, and it appearing to the commission that this application should be granted,

It is hereby ordered by the Railroad Commission of the State of California that this application be and the same is hereby approved, and applicant is granted permission to enter into said contract.

Dated at San Francisco, California, this 17th day of February, 1917.

DECISION No. 4112.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES HARBOR WAREHOUSE COMPANY FOR AN ORDER APPROVING ISSUE OF CAPITAL STOCK, APPROVING ISSUE OF NOTES AND MORTGAGE, AND GRANTING PERMISSION TO ENGAGE IN WAREHOUSE BUSINESS AT WILMINGTON.

Application No. 2750.

Decided February 19, 1917.

Applicant authorized to issue 566 shares of its capital stock of the par value of \$100.00 per share and a note in the sum of \$33,000.00, secured by mortgage of its properties, such securities to be issued in lieu of securities heretofore issued without authorization.

It is not necessary to secure a certificate of public convenience and necessity to engage in the warehouse business.

E. W. Freeman and J. C. Macfarland, for Applicant.

LOVELAND, *Commissioner*.

OPINION.

Los Angeles Harbor Warehouse Company was organized on January 26, 1916. It owns two warehouses at Wilmington, Los Angeles harbor, one of concrete and the other of brick.

The concrete warehouse is of fireproof construction, three stories in height, 82 feet in width with an average length of 178 feet. A portion of the building is now leased to Smart & Final Company, wholesale grocers, at a rental of \$300.00 per month for a period of ten years, with an option for additional floor space.

The brick warehouse is one story and is of semifiireproof construction. It is 50 feet in width with an average length of 243½ feet. It is leased to the Newmark Grain Company at a rental of \$150.00 per month for a period of two years, with an option to the lessee for a further term of eight years at a rental of \$200.00 per month.

These warehouses were constructed and equipped by the applicant during the latter part of 1916 at a total cost of \$89,274.35. The funds were raised by the sale of 566 shares of stock at par and the issue of promissory notes in the total amount of \$33,000.00.

The applicant has not considered itself a public utility and has leased space in its buildings only to the parties designated. It is empowered to conduct a public utility warehouse business and in order that it may remove the issue of its stock and the creation of a mortgage from any cloud of illegality, it has petitioned this commission for authority to issue new stock and to create a new mortgage.

It is not necessary at this time to pass upon the status of this applicant, as this commission may proceed upon the application as presented. The applicant has sold its stock for par and has used the money in the acquisition of real estate and the construction of warehouse buildings. It is proper that it should be authorized to issue 566 shares of stock to take up a similar amount of stock heretofore issued without authority from this commission.

The applicant desires to issue its promissory note or notes for \$33,000.00 and to execute a mortgage to secure the same. These notes will be issued to refund the present indebtedness of \$33,000.00.

It is not necessary for the applicant to obtain a certificate of public convenience and necessity to engage in the warehouse business.

I recommend that this application be granted and submit the following form of order:

ORDER.

Los Angeles Harbor Warehouse Company having applied to this commission for authority to issue 566 shares of its capital stock, to execute a mortgage of its properties, and to issue \$33,000.00 face value of promissory notes,

And a hearing having been held and it appearing that the purposes for which the applicant desires to issue said stock and said note or notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles Harbor Warehouse Company be granted authority, and it is hereby granted authority, to issue 566 shares of its capital stock at the par value of \$100.00 per share, to execute a mortgage of its properties to secure a promissory note or notes of the face value of \$33,000.00, and to issue its promissory note or notes secured by said mortgage of the face value of \$33,000.00.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall be issued to take up and cancel a like amount of stock heretofore issued.
2. The note or notes herein authorized to be issued shall be issued to Hellman Trust and Savings Bank of Los Angeles payable three years after date with interest not to exceed 6 per cent per annum.
3. The proceeds derived from the sale of said note or notes shall be used to refund existing note indebtedness of the face value of \$33,000.00.
4. On or before the twenty-fifth day of each month, applicant shall report to this commission the action taken under this order until all of the stock and notes herein authorized shall have been issued and the mortgage herein authorized shall have been executed.

The authority herein given to applicant is conditioned upon the payment by applicant of the fee prescribed under the Public Utilities Act.

The authority herein given shall apply to such stock and such notes as shall have been issued on or before June 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 19th day of February, 1917.

DECISION No. 4113.

IN THE MATTER OF THE APPLICATION OF LAWRENCE LEO JOHNSON
FOR AN ORDER AUTHORIZING THE SALE OF A WATER PLANT,
PIPE LINE AND DISTRIBUTION SYSTEM TO IDA JANE BARNETT.

Application No. 2746.

Decided February 19, 1917.

Applicant authorized to transfer a certain water system near the city of Bakersfield for the sum of \$2,500.00, provided the purchaser shall make certain necessary improvements. Purchase price not to be binding upon the commission for rate fixing or other purposes.

Anderson & Borton, for Applicant.

T. W. McManus, for Consumers.

W. L. Mallot, for Highland Tract Improvement Club.

Floyd H. Barnett, for Ida Jane Barnett.

LOVELAND, *Commissioner*.

OPINION.

Applicant in this proceeding is the owner of a small water distributing system at Oildale, near Bakersfield, California, which system serves the Highland and Dickinson tracts with domestic water. The land upon which the system is located is owned by Mrs. L. S. J. Riley, mother of applicant.

The system consists of a well, engine and pump, and about 3,000 feet of pipe, to which there are now attached about 30 active service connections. Applicant claims to have invested \$4,000.00 in the system exclusive of the land. Storage of water is provided in a 30,000-gallon steel tank placed upon a 20-foot tower. The rates are under a flat schedule varying from \$1.50 per month in the winter months to \$2.00 per month during the summer. No complaint is made as to the rates. Permission is sought to sell the plant other than the land upon which the well and pipes are located to Ida Jane Barnett for the sum of \$2,500.00, applicant alleging as a reason for desiring to sell that he is no longer a resident of the community and can not give the business his personal attention.

Ida Jane Barnett, who desires to purchase the system, was unable to be in attendance at the hearing, owing to illness, but was represented by her husband, Floyd H. Barnett, who testified that he was authorized, without reservation, to represent her.

T. W. McManus, the owner of Highland Tract, and W. L. Mallot, president of the Highland Tract Improvement Club, appeared as representatives of the consumers, not with the desire of protesting against the transfer of the system, but asking assurance that leaks in the pipes would be repaired and better service rendered. Assurances were given at the hearing that Ida Jane Barnett, the purchaser, could and would repair the system and maintain good service, which assurances were satisfactory to the representatives of the consumers.

There was submitted with the application a form of lease, marked "Exhibit A," under which the one acre of land owned by Mrs. L. S. J. Riley, upon which the well, pump and reservoir are located, will be leased to the purchaser, Ida Jane Barnett, for the term of 20 years, beginning February —, 1917, at an annual rental of \$1.00. The one

acre of land situated in the county of Kern, state of California, is particularly described as follows:

“One acre of ground in a square form situated near the northwest corner of the northwest quarter of the northeast quarter of the southeast quarter section seven (7), in township twenty-nine (29) south, range twenty-eight (28) east, M. D. M.”

Said lease also provides for a right of way for ingress and egress to the plant across the land owned by Mrs. Riley to the public highway, said right of way to be 10 feet wide, extending on both sides of and along the route of the 5½-inch pipe line leading from the reservoir to the highway between the Highland Tract and the Dickinson Tract.

There was also submitted with the application a form of a bill of sale, marked “Exhibit B,” under which the property is to be conveyed to the purchaser.

The receipts from this utility during 1916 were \$540.00 and the expenses were \$504.00. Due to the absence of the owner, an extra man had to be employed to run the plant, making the expenses more than they would have been had the owner operated the plant. Floyd H. Barnett testified that with the rapid growth of the district the number of services could be largely increased in the immediate and near future.

By stipulation of all parties to this proceeding it was agreed that the report of the commission's engineer might be made subsequent to the hearing after an investigation had been made and considered a part of the record, such report to be considered and referred to in the decision herein. The engineer of the commission reported that the following improvements should be made:

1. Roofing of the steel water tank.
2. Covering all exposed pipes by soil to a depth of at least 15 inches.
3. Permanent repair of the most evident leaks on the system.

I recommend that the purchaser of applicant's water system be required to carry out these suggestions and make these improvements.

The engineer of the commission examined the vouchers showing expenses incident to the construction of the plant, and reported that the reasonable cost, less accrued depreciation, is not less than \$2,500.00, the consideration of the transfer.

I recommend the following order:

ORDER.

Lawrence Leo Johnson having applied for an order authorizing the transfer of a water utility serving the Highland and Dickinson tracts, near the city of Bakersfield, to Ida Jane Barnett, and a hearing having been held and it being found to the interest of the community con-

cerned that the transfer be made, and being fully apprised in all the circumstances,

It is hereby ordered that permission be granted to Lawrence Leo Johnson to sell to Ida Jane Barnett the water system now owned by him in furnishing service to residents of the Highland and Dickinson tracts, near the city of Bakersfield, for the consideration of two thousand five hundred dollars, but subject to the following conditions and not otherwise:

1. That the form of lease from Mrs. L. S. J. Riley to Mrs. Ida Jane Barnett of the one acre of ground and the right of way hereinbefore mentioned shall be the same as filed with the application and marked "Exhibit A."

2. That the bill of sale conveying the water plant, pipe line and distributing system herein conveyed shall be in the form set forth in "Exhibit B" attached to the application.

3. That the purchaser of the system, Ida Jane Barnett, make certain improvements outlined in the opinion preceding this order, to wit: putting a cover upon the tank, covering exposed mains and satisfactorily repairing the leaks in the pipe.

4. That the sum paid by Ida Jane Barnett to applicant, Lawrence Leo Johnson, for this system, shall not be claimed before this commission or any other public authority as evidence as to the value of the plant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of February, 1917.

DECISION No. 4114.

IN THE MATTER OF THE APPLICATION OF FRESNO CANAL AND LAND COMPANY FOR AUTHORITY TO SELL, AND OF FRESNO CANAL AND LAND CORPORATION FOR AUTHORITY TO PURCHASE, CERTAIN PROPERTIES, AND THE APPLICATION OF FRESNO CANAL AND LAND CORPORATION TO ISSUE ITS CAPITAL STOCK OF THE PAR VALUE OF ONE MILLION DOLLARS AND ITS BONDS OF THE FACE VALUE OF SIX HUNDRED THOUSAND DOLLARS.

Application No. 2727.

Decided February 19, 1917.

When a utility reduces its outstanding indebtedness from \$1,250,000.00 to \$1,000,000.00 par value of stock and from \$1,573,862.15 to \$600,000.00 face value of bonds, the commission is inclined to look with favor upon the issuance of an additional amount of bonds of the face value of \$400,000.00, to be exchanged for an equivalent par value of capital stock when its earnings are sufficiently

large to provide at least one and three-fourths times interest on bonds outstanding, and such amounts as are proposed to be issued at the time; however, authorization for the issuance of such bonds will not be given until such time as the utility is prepared for their actual issuance.

THELAN, *Commissioner*.

SUPPLEMENTAL ORDER.

On February 7, 1917, the Railroad Commission made its order herein authorizing Fresno Canal and Land Company to convey to Fresno Canal and Land Corporation substantially its entire irrigation system in Fresno and Kings counties, authorizing Fresno Canal and Land Corporation to issue its capital stock of the par value of \$1,000,000.00 in consideration for the transfer of said property and to issue its first mortgage bonds of the face value of \$600,000.00 and to use the proceeds to pay outstanding mortgage and other indebtedness of Fresno Canal and Land Company. The result of this transaction, as represented by petitioners herein at the hearing, was that the amount of capital stock outstanding would be reduced from \$1,250,000.00 to \$1,000,000.00, par value, and the mortgage indebtedness from \$1,573,862.15 to \$600,000.00, and that all other indebtedness of Fresno Canal and Land Company would be canceled.

Fresno Canal and Land Corporation has now filed herein a supplemental petition alleging, in effect, that in the original petition herein, petitioners failed to represent to the Railroad Commission that in consideration of the payment and satisfaction of the mortgage indebtedness of Fresno Canal and Land Company, the holders of the capital stock of Fresno Canal and Land Corporation would expect that when and as the bonds of Fresno Canal and Land Corporation in excess of those authorized to be issued by order of February 7, 1917, could be issued under the terms of the mortgage or deed of trust securing the same, Fresno Canal and Land Corporation would be authorized to issue such additional bonds and to exchange the same for an equal amount in par value of the capital stock of Fresno Canal and Land Corporation now to be issued; that it was the understanding between Fresno Canal and Land Corporation, the stockholders of Fresno Canal and Land Company and the purchaser of the bonds of the face value of \$600,000.00 authorized to be issued by the order of February 7, 1917, that such issue of bonds in exchange for capital stock would hereafter be made in consideration for the discharge of the entire indebtedness of Fresno Canal and Land Company; and that if the bonds of Fresno Canal and Land Corporation are hereafter exchanged for the capital stock of said corporation in an amount not to exceed the total of \$400,000.00, the total amount of outstanding securities in bonds and capital stock will not exceed the amount authorized in the decision of February 7, 1917,

namely, the total sum of \$1,600,000.00. Fresno Canal and Land Corporation asks that the Railroad Commission make its supplemental order herein "to assure said stockholders that if an application for permission to issue further bonds of said Fresno Canal and Land Corporation is hereafter made, for the purposes above set forth, said application will be granted, if conditions shall justify the same at the time such application is made."

In a word, Fresno Canal and Land Corporation now asks the Railroad Commission to make its order authorizing Fresno Canal and Land Corporation hereafter to issue its remaining unissued first mortgage bonds in an amount not to exceed the sum of \$400,000.00 in exchange, at face value, for an equivalent amount in par value of the capital stock of Fresno Canal and Land Corporation authorized to be issued by the order of February 7, 1917, such bonds to be issued only provided the company's net income during the 12 months next preceding shall be at least one and three-fourths times the interest on all bonds outstanding and applied for, and provided, further, that the amount of bonds outstanding and thus proposed to be issued shall not exceed 60 per cent of the appraised value of the company's properties, as found by the Railroad Commission at or within one year prior to the date when said additional bonds are issued. These conditions are contained in the proposed deed of trust or mortgage of Fresno Canal and Land Corporation. Petitioner presents that it is desirable that some assurance be given to the English creditors and stockholders of Fresno Canal and Land Company, so that they will feel justified in canceling the entire outstanding indebtedness of Fresno Canal and Land Company amounting to in excess of \$1,500,000.00 and in substituting therefor a mortgage indebtedness of Fresno Canal and Land Corporation amounting, in the first instance, to \$600,000.00.

The granting of the supplemental petition herein would require the making of an order authorizing the issue of bonds, perhaps many years in the future. The Railroad Commission has consistently established definite and rather short time limits for the issue of the securities authorized by it and I see no reason in the present instance for departing from this policy. Nevertheless, under all the facts of the present proceeding, I see no objection to indicating that, in so far as the present members of the Railroad Commission are concerned, they would view with approval an application such as that suggested in the supplemental petition herein, provided, as stated in the language of the supplemental petition herein, that "conditions shall justify the same (such application) at the time such application is made."

This statement assumes that the petitioners in Application No. 2727 shall have complied with all the conditions specified in the order of February 7, 1917, herein.

A supplemental order herein is not necessary.

The foregoing opinion is hereby approved and ordered filed as the opinion of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 19th day of February, 1917.

DECISION No. 4115.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF FRESNO FOR PERMISSION TO CONSTRUCT AND MAINTAIN A PUBLIC HIGHWAY CROSSING OVER THE RIGHT OF WAY AND TRACKS OF THE CENTRAL PACIFIC RAILWAY COMPANY NEAR HERNDON, FRESNO COUNTY, CALIFORNIA.

Application No. 2678.

Decided February 19, 1917.

Applicant granted permission to construct a crossing at grade across the tracks of Southern Pacific Company near the town of Herndon, providing such crossing be constructed at right angles, advance crossing signs be installed and other conditions be complied with.

Chris Jorgenson, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

A public hearing on above application was conducted by Myron Westover, examiner, at Fresno, February 14, 1917.

By it the county of Fresno applies for authority to construct a public crossing 80 feet wide at grade over the tracks of the Southern Pacific system, owned by Central Pacific Railway Company, at a point near the common corner of sections 3, 4, 9 and 10 in township 13 south, range 19 east, M. D. B. and M., in Fresno County, about midway between the present crossing at Herndon and the present crossing about three miles southeast of Herndon.

The proposed crossing is to be constructed in connection with a proposed 80-foot boulevard which will extend from the vicinity of a subdivision known as Westacres, along the southerly line of what is known as the Herndon lands and across the state highway and the Southern Pacific tracks to Bullard on the Santa Fe, and on to Clovis. It will also connect with Van Ness avenue, leading to Fresno.

The 1,000 acres in Westacres tract has been subdivided into 10, 20 and 40-acre tracts and about 90 per cent of it sold. There are about 15 families located on the tract at present, many of them using the shipping facilities at Bullard and the school and civic center located there.

The Herndon lands consisting of about 1,700 acres immediately west of the state highway and Southern Pacific, and the Fresno Suburban Homes Tract consisting of about 7,200 acres located just east of the state highway and the Southern Pacific tracks, are being subdivided, leveled, planted and sold in small tracts.

There is considerable travel now which would use the proposed crossing if opened, and apparently much more travel will rapidly develop. Thirteen regular trains pass over the proposed crossing daily, nine of them passenger trains, and also an average of four extra freight trains.

The point of crossing is at the highest point in the vicinity. The surrounding country is level. There are no obstructions to the view. The railroad right of way is 150 feet wide, extending from the center line of the single track 100 feet east and 50 feet west. Adjoining and paralleling the crossing on the west is the state highway, 60 feet wide. This will assure a clear view of the crossing on approaching the tracks from either direction for a distance of 100 feet, or more, even after the fig orchards and olive trees along the boulevards which are being planted become large.

The crossing applied for would cross the tracks at an acute angle of about 45 degrees. The undisputed testimony is that a crossing at right angles is the most economical and safest type of grade crossing. An inspection of the ground also shows that a point of crossing about 100 feet to 150 feet north of the point proposed would have the advantage of level ground, and therefore better grade approaches and view, and would avoid the necessity for a cut of about four feet.

The Southern Pacific Company operating the railroad to be crossed offers no objection to the crossing, but prefers a right angle crossing and suggests installing an advance sign on the east side.

It appears from the testimony that the proposed crossing will aid materially in the development of the surrounding country, be a public convenience to those living in the vicinity and will involve only the minimum amount of risk to the traveling public.

The application is therefore granted with the modifications shown in the order.

ORDER.

The county of Fresno having applied to the Railroad Commission for authority to construct and maintain a public highway crossing 80 feet wide over the right of way and tracks of the Central Pacific Railway Company at a point near Herndon, Fresno County, said crossing being shown on diagram attached to the application as an exhibit, and a public hearing having been held thereon, and it appearing that public convenience requires the establishment of such a crossing,

It is hereby ordered by the Railroad Commission of the State of California that permission be and the same is hereby granted to Fresno County, California, to construct a public highway crossing 80 feet wide at grade over the tracks of the Central Pacific Railway Company at a point where the ground is level, from 100 to 150 feet north of the location applied for as shown on diagram attached to the application as an exhibit. The authority hereby granted is subject to the following conditions:

(1) The entire expense of constructing the crossing shall be borne by applicant.

(2) The expense of maintaining the crossing up to a line two (2) feet outside the rails of the Central Pacific Railway Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a line two feet outside thereof shall be borne by the Central Pacific Railway Company.

(3) The crossing shall be constructed of a width of not less than 80 feet and with grades of approach not exceeding four (4) per cent, shall be protected by suitable cattle guards, crossing sign, and also by an advance warning sign of a type recommended by the commission located about 300 feet east of the crossing on the north side of the boulevard. The crossing shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 19th day of February, 1917.

DECISION No. 4116.

COAST COUNTIES GAS AND ELECTRIC COMPANY

vs.

SIERRA AND SAN FRANCISCO POWER COMPANY.

Case No. 1015.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO SERVE OLD MISSION PORTLAND CEMENT COMPANY.

Application No. 2624.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER PRELIMINARY TO ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN SAN BENITO COUNTY.

Application No. 2626.

Decided February 20, 1917.

1. A utility by rendering financial assistance to a corporation, thereby helping to put it on an operating basis, does not secure, as to service, any additional rights thereby other than such rights as may otherwise have been established.
2. A utility can not allege invasion of its territory when the new utility undertakes to serve an industry which requires an amount of energy considerably in excess of the available supply of the present utility, especially when such utility has never undertaken to serve a business of such magnitude nor has ever filed rates covering such class of service.
3. A utility constructing a transmission line for the purpose of serving one large consumer is engaged in the distribution of electric energy. The term "distribution" "contemplates merely the division or apportionment of electric energy by a producer or distributor irrespective of the method" or whether the energy be divided between two or apportioned among many consumers.
4. Competition becomes objectionable only when it results in unnecessary duplication of investment and facilities. When joint occupation of specified territory results in more improved and efficient service or the induction of new and better methods it is beneficial to the public.
5. Existing facilities of utilities must be utilized to their highest efficiency before additional investments will be permitted to be made in similar facilities for the purpose of serving the same territory.
6. An existing utility which desires protection from competition must show not only an ability to serve but also the extent to which it has available, facilities to properly care for whatever business might be offered in the territory which it covers. A utility relatively weak financially and without the facilities necessary to render service to large industries requiring an extra heavy demand can not expect to exclude from its territory a utility able and willing to render such service.
7. Complainant, with its present facilities, could not deliver the load required by the cement company, and, under the rates at which it purchases energy at the present time, should it undertake such service, it would incur an annual loss of from eight to nine thousand dollars.
8. Utilities in interest required to decide upon a plan whereby they shall jointly utilize to the best possible advantage such facilities as are at present constructed which can be used in rendering service to the cement company. The Coast company to continue the sole distribution of energy to consumers in territory which it is now serving and Sierra company granted a preliminary certificate permitting service only to certain specified territory in San Benito County, provided, it shall not duplicate the lines or facilities of any other electric utility in such territory.

C. P. Cutten, for Coast Counties Gas and Electric Company.

Chickering & Gregory and *George H. Whipple*, for Sierra and San Francisco Power Company.

DEVLIN, Commissioner.

OPINION.

This proceeding was initiated by complaint of Coast Counties Gas and Electric Company brought against Sierra and San Francisco

Power Company. This complaint was filed on October 31, 1916, and alleges in effect that defendant is illegally, and contrary to an order of this commission, proceeding to construct an electric power line in San Benito County for the purpose of supplying electric energy to Old Mission Portland Cement Company, in the vicinity of the town of San Juan Bautista; that complainant, Coast Counties Gas and Electric Company, is the only company engaged in the business of supplying electric energy in the vicinity of said proposed cement plant; and that, in proceeding to supply said electric service to said Old Mission Portland Cement Company, defendant will violate the specific provisions set forth in this commission's Decision No. 171 (Opinions and Orders of the Railroad Commission of California, Vol. I, p. 386). Complainant asks that defendant be restrained from extending its proposed line to supply said Old Mission Portland Cement Company until the matter has been investigated by the commission.

Defendant, in its answer, admits that complainant is engaged in distributing and selling electric energy in San Benito County in the vicinity of the town of San Juan Bautista; admits that it, defendant, has commenced the construction of an electric power line from its main transmission line to the Old Mission Portland Cement Company's plant for the purpose of serving electricity to said company during its construction and operation; admits that it would be necessary to cross several county roads to reach the proposed plant, but alleges that it has a franchise so to do and denies that it is, or has been, constructing, or intends to construct a distribution system in said county of San Benito. The answer of defendant further alleges that defendant is about to serve said cement plant with electric energy in accordance with a contract entered into between the predecessor of said cement company and said defendant in or about the year 1907, which said contract was amended in the year 1914. It is further alleged that complainant has never given any electric service to said cement plant, or to any one located upon said property. Defendant asks that said complaint be dismissed.

Subsequent to the filing of the complaint and answer herein, Sierra and San Francisco Power Company, on November 6, 1916, filed its application for a certificate of public convenience and necessity to exercise the rights and privileges granted to it under the terms of a franchise heretofore granted by the county of San Benito. In this application petitioner alleged that by Ordinance No. 94, passed by the board of supervisors of San Benito County on July 1, 1912, petitioner was granted permission to erect, construct, maintain and operate its lines and wires over, along, across and upon any or all of the county roads, highways, public ways, streets and lanes of the county of San Benito; that in its Application No. 178 petitioner requested authority

to exercise the rights and privileges granted to it by said Ordinance No. 94 of the county of San Benito, and that the commission, in its Decision No. 171, held that public convenience and necessity required the exercise of the rights and privileges granted to petitioner by the county of San Benito in so far as the ordinance referred or related to the transmission, as distinguished from the distribution, of electric energy, and that if petitioner should, at some subsequent time, desire to distribute electric energy in said county, the commission would, on proper application therefor, after public hearing, render its decision on said application. It is further related in the application that in the year 1907 petitioner entered into a contract with the San Juan Portland Cement Company, predecessor in interest of Old Mission Portland Cement Company, whereby petitioner agreed to furnish said cement company with electric power to be used in the construction and operation of its said plant in the county of San Benito. It is further alleged that petitioner, in an endeavor to aid said cement company, assisted said company in its financial arrangements and in other ways so that it could become an operating company; that in 1912 said San Juan Portland Cement Company was succeeded by Old Mission Portland Cement Company; that shortly thereafter said contract was amended to its present form and that a copy of both said contracts are on file with this commission. The petition further alleges that the exercise of the right or privilege to furnish and sell electricity to said cement company in the county of San Benito under said franchise is required by public convenience and necessity, and in support of this claim petitioner alleges:

First—That the main transmission line of petitioner from Alviso, in Santa Clara County, to Salinas, in Monterey County, passes in close proximity to the cement works now under construction by said Old Mission Portland Cement Company, and that said cement works are not now being served by any public utility of like character with applicant.

Second—That said applicant has evidenced an intention since the year 1907 to construct a line to said cement plant for the purpose of furnishing said cement company with electric energy for its construction and operation.

Third—That petitioner is the only company in the vicinity of said plant which can furnish said cement company with electric energy to the extent demanded for the operation of said cement plant without an expenditure of considerable money for the reconstruction of power lines to said plant.

Fourth—That in order to supply said cement company with electric energy Coast Counties Gas and Electric Company would have to reconstruct its lines and expend a large amount of money for the purpose

of delivering sufficient power to enable the owners of said cement plant to operate the same; that said Coast Counties Gas and Electric Company does not generate sufficient power of its own, in connection with the other demands upon its system, to supply said cement company with the amount of power necessary for it to operate its cement plant, and that said Coast Counties Gas and Electric Company intends to purchase electric energy for the purpose of furnishing said cement company with power should it obtain the contract so to do, and that this arrangement would allow a company operating in another territory to sell power to operating companies in close proximity to the lines of petitioner herein, when petitioner could itself sell such power to its advantage.

Fifth—That petitioner is financially able to undertake and complete without delay the construction of a power line extending from its main transmission line to the works of said cement company, and to supply said cement company uninterruptedly with all electric energy necessary, at reasonable rates, and without having to reconstruct any portion of its main system to enable it to render the said service. Petitioner, in its said application, asks that the commission make an order finding that public convenience and necessity require that said petitioner shall construct its said transmission line to the works of said cement company for the purpose of supplying said cement company with electric power.

Subsequent to the filing of the application above referred to, Sierra and San Francisco Power Company filed with the commission a second application, and later an amended application, for an order preliminary to the issuance of a certificate of public convenience and necessity allowing petitioner to exercise rights and privileges under a franchise to be secured from the county of San Benito. In this second application as amended, petitioner relates that on the 9th day of November, 1916, petitioner applied to the board of supervisors of the county of San Benito for a franchise to distribute and sell electric energy for light, heat and power purposes in said county; that the exercise of the right or privilege to furnish and sell electric energy in said county is required by public convenience and necessity, and in support of said second application petitioner alleges as follows:

First—That the main transmission line of petitioner from Alviso, in Santa Clara County, to Salinas, in Monterey County, passes in close proximity to many of the inhabitants of said county and industries carried on therein, which are not now being served by another utility of like character with petitioner.

Second—That petitioner, upon entering said county of San Benito in 1912, evidenced and declared its intention of distributing electricity for light, heat and power purposes to the inhabitants of said county, by

obtaining a franchise from said county for said purposes. That Coast Counties Gas and Electric Company is at this time also serving some of the inhabitants and municipalities of San Benito County with electric energy, but that said Coast Counties company has not the facilities nor capacity to furnish all the inhabitants of said county, or all of the industries being carried on in said county, with sufficient light or power for their purposes, and that said Coast Counties Gas and Electric Company, if it has the opportunity to furnish power in any large amounts in said county, is compelled to purchase said electricity from other sources and from companies not operating in said territory.

Third—That the distribution of electricity for light, heat and power purposes in the county of San Benito in large quantities is necessary to some of the industries carried on in said county, and that petitioner has the necessary amount of power for sale for such purposes and can supply the same to the said industries and to the inhabitants of said county at reasonable rates.

Fourth—That there is no public utility of like character with petitioner in said county of San Benito which is, or would be, able to furnish electricity in large quantities for any purpose for which it may be used, without duplicating at a large expense the equipment of petitioner already constructed and in operation in said county. That no public utility is at present operating in said county of San Benito that has equipment to furnish electric energy in large quantities except petitioner.

Fifth—That there is no public utility of like character, of petitioner, or serving the same commodity with petitioner, now operating in said county of San Benito, or distributing electric energy therein, for any purpose, which has at the present time a legal right to extend its system in said county upon, along or over the highways thereof to meet the needs of the inhabitants residing, or of the industries operating, therein.

Sixth—That petitioner is financially able to undertake and complete, without delay, the construction of distributing lines extending from its main transmission line to the various parts of the county of San Benito whereby power or heat in large or small quantities may be furnished to the advantage of the industries and inhabitants of said county and of petitioner.

In its second amended application, petitioner repeats the allegations contained in its first application relative to its contract with San Juan Cement Company and its successor, Old Mission Portland Cement Company of San Juan in the county of San Benito. This application further sets forth that if the commission shall conclude that it is not desirable for applicant to have a general right to serve electricity for light, heat and power purposes in those parts of San Benito County

not now served by any other utility, then said petitioner alleges that the exercise of the right or privilege to sell and furnish electricity to said cement company in said county of San Benito under said franchise to be secured from said county is required by public convenience and necessity for the following reasons:

First—That the main transmission line of petitioner from Alviso, in Santa Clara County, to Salinas, in Monterey County, passes in close proximity to the cement plant now under construction by said Old Mission Portland Cement Company, and said cement plant is not now being served by any public utility of like character with petitioner with electricity for the purpose of constructing or operating its said works.

Second—That said petitioner has evidenced an intention since the year 1907 to construct a line to said cement plant for the purpose of furnishing said cement company with electric energy for its construction and operation.

Third—That said petitioner is the only company in the vicinity of said plant of Old Mission Cement Company which can furnish said company with electric energy to the amount demanded for the operating of said cement company, without an expenditure of considerable money for the reconstruction of power lines to said cement plant.

Fourth—That Coast Counties Gas and Electric Company has to reconstruct certain of its lines in San Benito County and expend a large amount of money to enable it to deliver sufficient power to operate the plant of Old Mission Portland Cement Company; that Coast Counties Gas and Electric Company does not generate sufficient power of its own, in connection with the other demands upon its system, to supply said cement company with the amount of money required by it, and that said Coast Counties Gas and Electric Company intends to buy electric power for the purpose of supplying said cement company if it is able to get the contract therefor, which arrangement would allow a company operating in another territory to sell power to operating companies within close proximity to the lines of petitioner, when petitioner itself could serve such power to its advantage.

Fifth—That there is no other public utility of like character with petitioner in said county of San Benito, which is able, or would be able, to furnish electric energy in large quantities to said Old Mission Portland Cement Company without duplicating at a large expense the equipment of petitioner already constructed and in operation in said county, and that there is no public utility at present operating in San Benito County, other than petitioner, with equipment to furnish electric energy in large quantities for any purpose.

Sixth—That there is no public utility of like character with petitioner now operating in said county of San Benito, or distributing electric current therein for any purpose, which has at the present time a legal right to extend its system within said county upon, along or over the highways thereof, to meet the needs of the inhabitants residing or the industries operating therein.

Seventh—That petitioner is financially able to undertake and complete without delay the construction of a power line extending from its main transmission line to the works of said cement company, and to supply said cement company uninterruptedly with all power necessary for its uses at reasonable rates, and without having to reconstruct any portion of its main line to enable it to render said service.

In this second application, petitioner asks that the commission make an order preliminary to the issuance of a certificate of public convenience and necessity as provided in section No. 50, Public Utilities Act, granting to said petitioner the right to enter the county of San Benito for the purpose of supplying such county and the inhabitants thereof, or such portion thereof as the commission may deem proper, or, granting the right to petitioner to serve Old Mission Portland Cement Company with electric energy for light, heat and power purposes under a contract, or, without the privilege of serving other parts of said county of San Benito except upon further application to the commission.

Coast Counties Gas and Electric Company, in its answer and protest to the first application of Sierra and San Francisco Power Company above referred to, denies that public convenience and necessity requires the exercise by petitioner of the right or privilege to furnish electric energy to Old Mission Portland Cement Company under the franchise granted to petitioner by said county of San Benito as set forth in the application; denies that the main or any line of petitioner passes in close proximity to the cement works of said Old Mission Portland Cement Company and alleges that said transmission line of said petitioner is distant from said cement plant approximately four miles; alleges that the lines of the Coast Counties Gas and Electric Company are distant approximately three-quarters of a mile from the cement plant of Old Mission Portland Cement Company and that said Coast Counties Gas and Electric Company is distributing electricity and power within less than one-half mile from said cement plant; alleges that said Coast Counties Gas and Electric Company is willing and able to supply said Old Mission Portland Cement Company and its said cement plant near the town of San Juan, San Benito County, with electric energy to be used for light, heat and power purposes at reasonable rates, and has heretofore informed said

Old Mission Portland Cement Company of its willingness to distribute electric energy for all of its requirements at its said cement plant; denies that petitioner is the only company in the vicinity of said plant of said Old Mission Portland Cement Company which can furnish said cement company with electric energy to the amount demanded for the operation of said cement plant, without an expenditure of considerable money for the reconstruction of power lines to said plant, and alleges that petitioner will be compelled to construct a new power line for a distance of approximately four miles in order to supply this service, and that for a distance of approximately three and one-quarter miles said line of petitioner will parallel an existing line of Coast Counties Gas and Electric Company, and that the construction of said proposed line by petitioner will result in a duplication of investment in the county of San Benito; that it will be compelled to reconstruct a portion of its transmission line to supply said Old Mission Portland Cement Company, but alleges that it will be compelled, because of the rapidly increased demand for power in territory now served by it, to reconstruct its transmission line from a point one mile south of the city of Gilroy to a point about one-quarter of a mile south of the town of San Juan, in which territory is located the said cement plant of Old Mission Portland Cement Company; alleges that the revenue which would be derived from supplying electric energy to said Old Mission Portland Cement Company would assist said Coast Counties Gas and Electric Company in carrying the investment which it must necessarily make in reconstructing its lines to care for the development of its business. The answer and protest of Coast Counties Gas and Electric Company further alleges that said Coast Counties Gas and Electric Company is furnishing adequate and dependable service at reasonable rates to all classes of consumers within the territory supplied by it, and is able and willing to furnish reliable and dependable service at reasonable rates to said Old Mission Portland Cement Company. The commission is asked to dismiss the application herein.

The complaint of Coast Counties Gas and Electric Company, hereinafter called Coast Counties company, and the first and second application of Sierra and San Francisco Power Company, hereinafter designated as Sierra company, were consolidated for hearing and decision and public hearings were held in San Francisco on November 9, 17, 21, 22 and 24, 1916, at which time testimony was introduced by the parties hereto bearing upon the issues raised by the pleadings.

Historical Summary and Former Proceedings Before Commission.

It appears from the evidence that on or about August 8, 1907, Stanislaus Electric Power Company, hereinafter designated Stanislaus company, the predecessor of Sierra and San Francisco Power Com-

pany, entered into a contract with the San Juan Portland Cement Company, at which time neither the Stanislaus company nor any other electrical company had electric transmission or distribution lines in the vicinity of the proposed cement plant at San Juan, in San Benito County. About two years later, or in 1909, the predecessor of Coast Counties Gas and Electric Company extended its lines from Watsonville to Madrone and Hollister by way of Logan, Sargents, Gilroy and San Juan. Early in 1912 the Sierra company extended its main 60-kilovolt transmission line from Alviso to Salinas via Sargents, crossing the Coast counties' 20-kilovolt line at a point about four miles northeast of the cement plant site of San Juan Portland Cement Company near San Juan in San Benito County. From 1907 to 1914 the cement company apparently devoted its efforts to attempts at financing, and in 1912 the San Juan company was reorganized under the name of Old Mission Portland Cement Company. In April, 1912, the Sierra company made application to the commission for permission to complete the construction of its transmission line from Alviso, in Santa Clara County, to Salinas, in Monterey County, and for an order preliminary to the issuance of a certificate of public convenience and necessity allowing said Sierra company to exercise rights and privileges under franchises to be secured from the municipalities of Morgan Hill and Gilroy and from the county of San Benito. On May 11, 1912, the commission, in its Decision No. 72 (Opinions and Orders of the Railroad Commission of California, Vol. I, p. 111), granting the application of the Sierra company, referred to the San Benito County situation in the following words:

"It does not appear from the evidence what portions of the county of San Benito, if any, are served by other utilities of the character of the applicant, and hence the permission herein merely gives the applicant the right to construct its line through said county contingent upon the necessary permit or franchise by the board of supervisors thereof. On proper application and showing of facts, the commission will determine whether or not the local distribution of light or power by the applicant shall be permitted in the county of San Benito."

In August, 1912, the Sierra company, after having procured franchises in the municipalities of Morgan Hill and Gilroy and in the county of San Benito, made application to the commission for a final certificate of public convenience and necessity permitting it to exercise its rights and privileges under said franchises. On August 8, 1912, the commission in its Decision No. 171 (Opinions and Orders

of the Railroad Commission of California, Vol. I, p. 386) granted the said application of the Sierra company and made the following order:

"It is hereby declared that public convenience and necessity require the exercise of the rights and privileges granted by the town of Morgan Hill by its said Ordinance No. 42, by the county of San Benito, by its said Ordinance No. 94, and by the town of Gilroy by its said permit dated May 7, 1912, in so far as said ordinances and permits relate to the transmission as distinguished from the distribution of electrical energy through said two towns and said county.

"It is hereby expressly declared that this authorization does not apply to said franchises and said permit in so far as they relate to the distribution of electrical energy within said two towns and within said county. The commission hereby reaffirms its decision on said application No. 13 to the effect that if applicant shall at some subsequent time desire to distribute electrical energy in said towns and said county, this commission will on proper application therefor and after public hearing render its decision on such application."

In September, 1914, the Sierra company entered into a new power contract with Old Mission Portland Cement Company, whose financial difficulties had not yet been surmounted, and the Sierra company further agreed in a separate contract with the cement company to assist in the financing of the latter to the extent of \$25,000.00. While reference is here made to the tender of financial assistance by the Sierra company merely because of its historical significance and not because any right not otherwise properly secured could be thereby established, there can be no doubt but that it was largely, if not primarily, due to these contracts with the Sierra company that Old Mission Portland Cement Company had progressed so satisfactorily with its financial arrangements that in September or October, 1916, it commenced the construction of its plant, and desired to obtain electric power to facilitate such construction.

About this time, or to be exact, on August 18, 1916, the Coast Counties company which up to that time, as testified to by its general manager, had considered the cement company a "busted concern," received an application for electric power amounting to 30 kilowatts from a Mr. Stone of the Hunt Engineering Company, in charge of the construction for Old Mission Portland Cement Company. The power covered by this application was intended to be used only in connection with construction work, which will probably be completed by the fall of 1917. The application of Mr. Stone for power was canceled, or at

least indefinitely suspended by him shortly after it was made, which cancellation was undoubtedly due to the existing contracts between Old Mission Portland Cement Company and the Sierra company.

Although testimony introduced in its behalf tends to indicate that the Coast Counties Company has had no negotiations with the cement company regarding the supplying by the former to the latter of electric energy, other than those negotiations having to do with the Stone application for a small amount of power to be used for construction purposes, it does appear that San Juan Portland Cement Company had attempted to arrange for electric power as early as 1907. The undisputed evidence of Mr. H. F. Jackson, general manager of the Sierra company, establishes the fact that San Juan Portland Cement Company had approached the predecessors of the Coast Counties company and Pacific Gas and Electric Company with a view to obtaining power service, and that it was only after these efforts had proven unsuccessful that San Juan Portland Cement Company entered into a contract with Stanislaus Power Company. The reason for the failure of these early negotiations can be understood when it is considered that the predecessors of Coast Counties company did not enter into a contract with Pacific Gas and Electric Company for a supplemental supply of electric energy until 1909, and that previous to that time these interests did not own or control sufficient production and distribution facilities to supply the amount of power required to operate the cement plant, and had no lines in the vicinity of San Juan. The Pacific Gas and Electric Company apparently did not complete its lines from San Jose to Madrone until 1909, and prior to this time it had no lines of sufficient capacity to carry the cement plant nearer than San Jose. Its San Jose-Davenport line was not completed until early in 1911.

Equitable considerations.

The situation, in so far as equitable considerations are involved, may be summarized as follows:

In 1907, or prior thereto, attempts were made by two separate interests to establish cement manufacturing plants in territory nearer to that then served by the predecessor of the Coast Counties company than to the territory reached by the lines of any other electrical corporation. One of these projects, being that of the Santa Cruz Portland Cement Company, located near Davenport in Santa Cruz County, was successfully financed and placed in operation in 1907 under steam power produced by itself. The other project, being that of San Juan Portland Cement Company, located near San Juan in San Benito County, was not so successful as its Davenport rival. The San Juan company attempted to secure electric power from the predecessor of Coast Counties company but was unsuccessful in its efforts in this

direction, and was under the necessity of contracting for power to be supplied by the Stanislaus company, a utility operating entirely outside of the general territory here involved. In 1909, the lines of the predecessor of Coast Counties company were constructed to Hollister in San Benito, and to Morgan Hill in Santa Clara County by way of Gilroy, to connect with the lines of, and to obtain an additional supply of power from, Pacific Gas and Electric Company under contract at a rate of one cent per kilowatt hour. At this time the Davenport plant of the Santa Cruz Portland Cement Company was still being operated by steam power, within three and one-half miles from the hydroelectric power plant of the Coast Counties company and within about eleven and one-half miles of the steam plant of Coast Counties company at Santa Cruz. At this time also, the plant site of San Juan Portland Cement Company near San Juan was within one and one-half miles of the 22-kilovolt Hollister line of Coast Counties company, and not more than four and three-quarters miles from the junction of its Hollister and Gilroy circuits. During the latter part of 1910, or the early part of 1911, Pacific Gas and Electric Company entered into a contract with the Santa Cruz Portland Cement Company, and about March, 1911, commenced to deliver power to the Davenport plant. During the same year, 1911, Pacific Gas and Electric Company connected with the Big Creek line of Coast Counties company and began furnishing electric energy to Coast Counties company from this second supply point. In 1912 the Sierra company completed its 60-kilovolt line from Alviso to Salinas, which line passed within a distance of approximately four miles from the cement plant site near San Juan. In 1914, as hereinbefore related, the San Juan Portland Cement Company was reorganized under the name of Old Mission Portland Cement Company, and shortly thereafter new contracts were entered into between the reorganized cement company and the Sierra company whereby the Sierra company agreed to furnish power to the cement company at lower rates than the Coast Counties company paid for its energy wholesale, and the Sierra company further agreed to assist in the financing of Old Mission Portland Cement Company. Early in 1916 Pacific Gas and Electric Company proposed that a new rate for electric service supplied by it to Coast Counties company be considered, but it was not until August of that year that Coast Counties company asked to have a contract submitted for its consideration covering the proposed new rate, and it was October 17, 1916, that the new contract was actually submitted to Coast Counties company. Up to this time Coast Counties company had made no attempt to secure the business of the Old Mission Portland Cement Company, had neither submitted nor established rates applicable to such business, had com-

pleted no arrangements for the purchase of power under conditions which would enable it to supply the cement business if it were obtained, nor did it possess supply facilities, either individually or jointly with Pacific Gas and Electric Company, such as would enable it to supply, without a large expenditure of money, a load of anywhere near the magnitude of that which will be created by the operation of the cement plant. The Sierra company, on the other hand, has apparently kept in touch with the affairs of Old Mission Portland Cement Company, has agreed to supply the cement company with elective energy at rates which will permit Old Mission Portland Cement Company to compete with other cement plants in the central part of the state, and has in operation in the immediate vicinity, a power line of ample capacity to take care of any and all demands of the cement plant, in addition to all of its other business supplied by said line.

Considering the service to Old Mission Portland Cement Company alone, as a simple matter of justice between the parties hereto, and as just reward for its continued effort to assist the establishment of a new industry in San Benito County, which has been considered by Coast Counties company merely as an unsuccessful and financially irresponsible enterprise, I believe there can be no question but that the Sierra company is entitled to serve the business which it has thus helped to create. However, there are other important considerations involved which demand careful attention.

Transmission as distinguished from distribution.

The Sierra company raises the point that in proceeding with the construction of its line to supply Old Mission Portland Cement Company it was not engaging in the distribution of electric energy within the prohibition contained in the commission's Decision No. 171 (Opinions and Orders of the Railroad Commission of California, Vol. I, p. 386). There is no merit in this contention. The term "distribution," as I understand it, shorn of its purely technical significance, and as I believe the commission used it in its Decision No. 171 (Opinions and Orders of the Railroad Commission of California, Vol. I, p. 386), contemplates merely the division or apportionment of the electric energy by a producer or distributor irrespective of the methods by which the division or apportionment is accomplished or the facilities utilized, and entirely independent of whether the energy be divided between only two or apportioned among many. In confining its permission contained in said Decision No. 171 to transmission, as distinguished from distribution, the commission undoubtedly had in mind the uninterrupted conveyance or transmission of the energy from Alviso to Salinas.

The economic problem.

The broad economic problem here presented, devoid of the purely selfish interests of two or more public utility corporations, each striving for individual advantage one over the other, demands for its solution the same impersonal consideration which would be accorded a similar problem by a single corporation controlling the aggregate facilities of all these several interests which are now devoted to the service of the public. The best interests of the public do not appear at all times and under all circumstances to coincide with the various interests of the public utility corporations involved, although in the final analysis the ultimate interests and welfare of the utilities can only be safeguarded to their owners when the public is receiving the most economical and efficient service which can be accorded by a proper utilization of the existing service facilities. Competition, or at least the joint occupation of the same territory by two or more utilities of similar character, becomes objectionable when it results in unnecessary and unjustifiable duplication of investment and facilities. Such a condition represents an economic waste, because the duplication of existing proper and adequate facilities and operating organizations renders the efficient utilization of the facilities of either one or more of the utilities involved, both as regards capital investment and operating costs, improbable if not impossible. When such joint operation of territory does not, and will not, result in this unsatisfactory condition, it ceases to be objectionable from the public point of view, and, under certain conditions, may even be beneficial, bearing in mind, of course, the fact that where natural advantages or improved methods or processes render the existing facilities obsolete, unsuitable or uneconomical, the public interest demands that proper and more efficient facilities, methods or processes be adopted, either by the utility enjoying a monopoly in any field or by another utility which will accord the public the benefits to which it is entitled.

The economic situation, in so far at least as the physical plant is concerned, appears to be as follows:

Coast Counties company owns and operates a small hydroelectric plant of 810-kilowatt-rated capacity, located at Swanton in Santa Clara County. This plant during the year 1915 generated 4,042,400 kilowatt hours, of which total 2,913,600 kilowatt hours or about 72 per cent was produced from February to July, inclusive, 640,800 kilowatt hours or 15.85 per cent being produced in January and August, and only 488,000 kilowatt hours during the remaining four months. The Coast Counties company also maintains steam plants in Santa Cruz and Watsonville, the former having a rated capacity of 1,000 kilowatts and the latter 750 kilowatts. These steam auxiliaries are used but very little as is evidenced from the fact that during 1915 the Santa Cruz plant

turned out but 64,400 kilowatt hours while the Watsonville plant produced but 47,600 kilowatt hours. During the same year, 1915, Coast Counties company purchased from Pacific Gas and Electric Company, at Davenport, 1,859,440 kilowatt hours and at Morgan Hill in Santa Clara County, 3,212,000 kilowatt hours. The electric energy purchased by Coast Counties company from Pacific Gas and Electric Company at Davenport during the six months from February to July, 1915, was only 87,520 kilowatt hours, or about 4.7 per cent of the total amount purchased for the year at this point; 178,640 kilowatt hours was purchased at the Davenport supply point in January and August, 1915, and 1,593,280 kilowatt hours, or over 85 per cent, was purchased during the remaining four months. From the above statement of facts, it is apparent that the energy purchased by Coast Counties company at Davenport is used mainly to supplement the output capacity of its Big Creek hydroelectric plant. The energy purchased from Pacific Gas and Electric Company by Coast Counties company at Morgan Hill amounted to 3,212,000 kilowatt hours in 1915, of which 1,288,000 kilowatt hours were purchased during the first six months and 1,924,000 kilowatt hours during the last six months. The transmission system of Coast Counties company consists of 22-kilovolt single circuit lines on wooden poles. The line from Big Creek power plant and the supply point from Davenport to Watsonville, by way of Santa Cruz, is No. 4 B. & S. G. copper. From Watsonville to the junction of the Hollister and Gilroy circuits, the line into Hollister and the line from the junction to a point about one and one-half miles south of Gilroy is No. 6 B. & S. G. copper. From the last named point to Madrone, about two miles north of Morgan Hill, the line is No. 1 B. & S. G. copper.

The Coast Counties company's demand upon the system of the Pacific Gas and Electric Company is about 1,500 kilowatts at Davenport and 1,800 kilowatts at Morgan Hill.

The probable initial power requirements of Old Mission Portland Cement Company for the operation of its cement plant near San Juan is estimated to be between 1,200 kilowatts and 1,500 kilowatts. To supply this load in addition to its regular business, Coast Counties company will be required to make a large capital investment in new lines and equipment and in the rehabilitation of existing lines. The combined investment of Coast Counties company and Pacific Gas and Electric Company for supplying the cement plant from a 60-kilovolt circuit, exclusive of the return circuit from San Juan to Gilroy and not including the substation at San Juan, was estimated by Mr. J. E. Woodbridge at \$125,000.00. Mr. Charles Grunsky, of the commission's gas and electric department, estimated that the probable investment of Coast Counties company in lines alone to supply this cement

plant load would be \$46,000.00 for a 60-kilovolt circuit from Madrone to San Juan, a distance of approximately twenty-three miles. No allowance is made in Mr. Grunsky's estimate, however, for the necessary substation equipment at San Juan, nor is provision made for a return circuit from San Juan to Gilroy, which latter point, unless a return circuit were provided, would be without an auxiliary source of supply after Pacific Gas and Electric Company's line from San Jose to Madrone is changed from 22-kilovolt to 60-kilovolt. The probable total investment which Coast Counties company would be required to make in order to serve Old Mission Portland Cement Company may be taken as approximately double the amount provided in Mr. Grunsky's estimate, or in the neighborhood of \$92,000.00. It will be unnecessary to consider the probable cost of increasing the line voltage on the Coast Counties' system from 22-kilovolt to 38-kilovolt, for the reason that such an arrangement would be but a mere make-shift and the expense involved would not be warranted by the benefit to be obtained. The probable cost to the Sierra company of extending its lines and providing the necessary substation facilities at San Juan for the purpose of serving the cement plant would, in all probability, be considerably less than one-half the cost of providing for this service from any other available source.

From the above statement it will be apparent that in order for Coast Counties company to serve Old Mission Portland Cement Company from its present sources of power it would be necessary, in a large measure, to duplicate the existing facilities immediately available in the territory. Economically this duplication is entirely unjustified regardless of the ownership of the existing facilities, and, if permitted, will react unfavorably either on the cost of service to users of electric energy in Santa Clara, San Benito and other counties, or in a diminished return to the stockholders of either one or both of the parties hereto. On the other hand, if the Sierra company were permitted to distribute electric energy generally in that portion of San Benito County now served by Coast Counties company, a precisely similar condition of duplicated investment and economic waste would result, which is not warranted by public convenience and necessity.

When viewed from a purely economic standpoint it must be at once apparent that there can be but one solution to the problem, and this solution demands that the present facilities of both utilities be utilized to their highest efficiency before additional investment is made in similar facilities to serve this territory. The economic situation here presented, however, does not justify competition, but rather indicates a need for prompt and intelligent cooperation. Briefly, the Coast Counties company is already occupying the field with apparently adequate and proper distribution facilities and a reasonably efficient

operating organization, but in order to serve an additional load of the magnitude of the cement plant from its present source of power, it must make an additional large investment in transmission lines and equipment. The Sierra company, on the other hand, has no distributing system in San Benito County but possesses transmission capacity, readily and economically available, amply sufficient to provide the energy required by the cement company in addition to all of its other requirements. Obviously, from this point of view the interest of the public requires either that the Sierra company be permitted to supply the cement plant directly, limiting its activity to the service required by this particular consumer, or that Coast Counties company supply the cement plant, and in so doing utilize the existing transmission facilities of the Sierra company.

Protection from competition.

In addition to the phases of the problem already discussed, there are still other important considerations which it may be well to analyze:

Coast Counties company contends, with much merit, that inasmuch as it is at present occupying the territory and giving proper and adequate service at reasonable rates, it should be protected in the enjoyment of its present monopoly. With this general contention, assuming the premises are correct, I am in entire agreement, however, in finally passing upon the degree of protection to which a utility is entitled in a specific case, it is essential that the obligation undertaken by the utility shall clearly include the particular class of service for which it desires protection when another utility of similar character desires to enter the field. An existing utility is required to demonstrate not only its ability to serve but also the extent to which it holds itself out to serve; otherwise a financially-weak utility with limited facilities which are designed to serve, or which are capable of serving, only the relatively small consumer, could claim protection of territory when a class of business develops for which it has made no provision, either as regards rates or supply facilities. Clearly, protection of this character is directly contrary to the public interests, and if indulged in would effectually discourage the establishment of new enterprises in the territory so protected and remove the inducement and necessity for supplying proper utility service to all who may apply. In this connection it may be well to point out that a utility's claim to protection can not be maintained as against the public which demands service beyond the ability of the utility to supply, or of a character not contemplated in the obligation which the utility has assumed. The limitations of a utility's ability to serve involves questions of facts which may be readily determined, while

the self-imposed limitation of obligation to serve can best be disclosed by the actual operations of the utility and by its regularly established rate schedules. In the case at hand, as has already been related, Coast Counties company has established no rate applicable to power of the magnitude in character of the cement plant requirements, nor has it the ability, either as regards the cost of energy at present produced and purchased or as to supply facilities, to supply Old Mission Portland Cement Company at a rate which would enable the cement company to compete in open market with other plants of similar character. It is also significant that the only other large consumer in the territory served by Coast Counties company, which may be compared with Old Mission Portland Cement Company, is the Santa Cruz Portland Cement Company at Davenport, which consumer has been supplied direct by Pacific Gas and Electric Company since 1911, two years after Coast Counties company first began to purchase electric energy from Pacific Gas and Electric Company, and four years after the predecessor of the Sierra company entered into its contract to supply the predecessor of Old Mission Portland Cement Company.

From the facts hereinbefore set forth, it is apparent that Coast Counties company has not at any time held itself out to serve consumers of the magnitude or character of Old Mission Portland Cement Company, while the Sierra company has devoted the larger portion of its plant capacity to such service.

Ability to serve.

As bearing on the ability of Coast Counties company to serve large consumers of the character of Old Mission Portland Cement Company from its present source of supply, it should be noted that this class of service demands, under present conditions, a rate 35.7 per cent less than the rate paid by Coast Counties company for its general service from Pacific Gas and Electric Company, and about 14.2 per cent less than the lowest special rate now paid by Coast Counties company to Pacific Gas and Electric Company for service purchased for and supplied to the former's two largest consumers. At the new rate, which is contemplated in the tentative contract submitted to Coast Counties company by Pacific Gas and Electric Company, the additional cost only, to Coast Counties company, of supplying Old Mission Portland Cement Company, even if no new investment or operating expense were involved, is such that less than \$2,800.00 per year could be realized by Coast Counties company as profit. Considering the fixed charges on the additional investment required and other costs, Coast Counties company could scarcely hope to serve this consumer from its present supply source without a net loss of from eight to nine thousand dollars per year.

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The territory now served, or which may reasonably be served, by Coast Counties company in San Benito County includes all that portion of said county lying north of an east and west line between townships 14 and 15 south, Mount Diablo base, and that in said territory, in so far as the evidence in these proceedings disclosed the facts, Coast Counties company may be assumed to be furnishing proper and adequate service at reasonable rates to all classes of consumers which it has held itself out to serve. It will be unnecessary at this time to pass upon the question as to what obligations are imposed upon Coast Counties company by the franchise granted to it by the county of San Benito, nor to consider the question as to whether or not these obligations may be diminished or modified by self-imposed limitations in rates, regulations or the dedication of its facilities tending, by inference at least, to exclude particular classes of service.

That portion of San Benito County lying south of an east and west line between townships 14 and 15 south, Mount Diablo base, is at the present time entirely without electric service of any character.

It has been the policy of this commission to protect, wherever possible, the existing utility in any territory when it appears that such utility is properly and economically discharging its full duty and obligation to the public. With this policy in view, and with the present and future convenience and the necessity of the inhabitants of San Benito County in mind, I am convinced that under the circumstances of this particular case it will be in the interests of the public, as well as of the parties hereto, for Coast Counties company and the Sierra company to prepare and submit to the commission a plan for jointly utilizing the facilities and operating organizations of each, in such a manner as to permit Coast Counties company to continue the sole distribution and sale of electric energy to ultimate consumers in that portion of San Benito County now served by it, and which will further utilize, in so far as possible, the excess capacity of the supply facilities of the Sierra company in that territory. I would, therefore, recommend that the final order herein be withheld for twenty days from the date hereof, in order to permit the preparation and submission by the parties hereto of a tentative plan for carrying out the suggestions herein made relative to electric service in that portion of San Benito County now served by Coast Counties company.

As to that portion of San Benito County lying south of the fourth standard parallel, south, Mount Diablo base, I find that public convenience and necessity require, or will require, the exercise by Sierra and San Francisco Power Company of the rights and privileges under a franchise to be hereafter granted to it by said county. I further

find that, after obtaining its franchise in San Benito County, the Sierra company should be permitted to serve the territory in said county lying between the fourth standard parallel, south, Mount Diablo base, and of east and west lines between townships 14 and 15, south, Mount Diablo base, provided that in exercising its rights and privileges under said franchise as to said last named portion of San Benito County, the Sierra company shall not duplicate the facilities of any other electrical corporation which may now possess, or which may hereafter acquire, the right to distribute electric energy therein. These findings are made with the express understanding that Sierra company, its successors and assigns, will never claim before any court or other public body, a value for said franchise in excess of the actual cost thereof.

I submit the following form of order:

ORDER.

Coast Counties Gas and Electric Company having filed complaint in the above-entitled proceedings alleging that Sierra and San Francisco Power Company is illegally, and contrary to an order of the commission, proceeding to construct an electric power line in San Benito County for the purpose of supplying electric energy to Old Mission Portland Cement Company, near the town of San Juan; and Sierra and San Francisco Power Company having applied to this commission for permission to exercise certain rights and privileges under a franchise heretofore granted by the board of supervisors of San Benito County; and Sierra and San Francisco Power Company having filed its petition herein asking that this commission make its order authorizing said Sierra and San Francisco Power Company to construct a line in San Benito County for the purpose of supplying electric energy to said Old Mission Portland Cement Company, and to otherwise distribute and sell electric energy in San Benito County, under the terms of a franchise to be hereafter granted, and the complaint and applications herein having been consolidated for hearing and decision, and public hearings having been held, the Railroad Commission hereby finds as a fact and declares that to the extent hereinafter provided, and not otherwise, public convenience and necessity require, and will require, the exercise by Sierra and San Francisco Power Company of the rights and privileges to be granted to it under a franchise, which has been applied for but which has not yet been secured from the board of supervisors of the county of San Benito, and basing its order on the foregoing declaration and finding of fact and upon the findings in the opinion which precedes this order,

It is hereby ordered that the complaint herein be and the same is hereby dismissed; and

It is further ordered that the application of Sierra and San Francisco Power Company for permission to exercise certain additional rights and privileges under a franchise heretofore granted to said Sierra and San Francisco Power Company by the board of supervisors of San Benito County by Ordinance No. 94, be and the same is hereby dismissed; and

It is further ordered that within twenty days from the date hereof Coast Counties Gas and Electric Company and Sierra and San Francisco Power Company prepare and submit to the commission a plan for carrying out the intent of the opinion which precedes this order, with reference to electric service within that portion of San Benito County lying north of an east and west line between townships 14 and 15, south, Mount Diablo base, and that the final order herein with reference to said portion of said county, be and the same is ordered withheld for twenty days from the date hereof pending the presentation of the plan herein required; and

It is further ordered and declared that public convenience and necessity require, and will require, the construction, operation and maintenance of electric power lines and distribution facilities and the furnishing of electric service by Sierra and San Francisco Power Company in that portion of San Benito County lying south of an east and west line between townships 14 and 15, south, Mount Diablo base, and that as to said portion of San Benito County this commission will hereafter, upon proper application, issue a certificate of public convenience and necessity under the conditions herein stated and which may hereafter be specified by the commission, declaring that public convenience and necessity require the exercise by Sierra and San Francisco Power Company of the rights and privileges under a franchise which has been applied for by said Sierra and San Francisco Power Company but which has not yet been granted by the board of supervisors of said county, provided that, as to that portion of San Benito County lying between an east and west line between townships 14 and 15, south, Mount Diablo base, and the 4th standard parallel, south, Mount Diablo base, Sierra and San Francisco Power Company, in exercising its rights and privileges under said franchise as to said portion of San Benito County, shall not duplicate without further order of this commission, the facilities of any other electrical utility which may now possess, or which may hereafter acquire, the right to distribute electric energy therein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 20th day of February, 1917.

DECISION No. 4117.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 287 GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2755.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 288 GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2756.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 289 GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2757.

Decided February 20, 1917.

Applicant granted a certificate permitting the exercise of rights under three certain wharf franchises obtained from the county of Contra Costa, provided it shall file a stipulation to the effect that no value shall be claimed for such franchises in excess of the actual cost thereof.

Frederick W. Hall, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing on above applications was conducted by Myron Westover, examiner, at San Francisco, California, February 19, 1917.

From the testimony it appears that the three wharf franchises, Nos. 287, 288 and 289, granted to applicant by the board of supervisors of Contra Costa County, February 5, 1917, are renewals of three franchises previously granted to the Port Costa Lumber Company and subsequently acquired by applicant, with certain tide lands adjacent thereto, which applicant holds as trustee for the stockholders of said company. Said company was dissolved by decree of the Superior Court May 25, 1915. The property is improved by a wharf extending into the waters of the Straits of Carquinez to navigable water and extending about 2,240 feet along the shore line in unincorporated territory about one mile from Crockett, Contra Costa County.

The easterly 870 feet of the wharf has been sold to Matson Navigation Company, subject to applicant's procuring an extension of the necessary franchise, which has been done by said Franchise No. 287. It is expected that that portion of the wharf will be actively used by that company.

It was shown that the actual cost to applicant of Franchise No. 287 was the sum of \$127.73, of Franchise No. 288 was \$127.23, and of Franchise No. 289 was \$118.98.

ORDER.

A. S. Carman having applied to the Railroad Commission for approval of three certain orders and resolutions of the board of supervisors of the county of Contra Costa, of February 5, 1917, granting to applicant wharf franchises Nos. 287, 288 and 289, renewing rights theretofore granted to applicant's predecessor in title to construct and maintain the wharf or wharves on the southerly shore of the Straits of Carquinez, and a public hearing having been held and the commission being of the opinion that the said three applications should be granted,

It is hereby ordered by the Railroad Commission of the State of California that upon applicant or his attorney filing with the commission a stipulation in writing, in form satisfactory to the commission, signed by applicant, declaring that he, his successors or assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights, franchises and privileges in excess of the actual cost to applicant of acquiring said rights, franchises and privileges, which cost is represented by applicant to have been \$127.73 for Franchise No. 287, \$127.23 for Franchise No. 288, and \$118.98 for Franchise No. 289, the Railroad Commission will by supplemental order herein grant said applications and approve the authority granted by the board of supervisors of Contra Costa County by said franchises Nos. 287, 288 and 289.

Dated at San Francisco, California, this 20th day of February, 1917.

DECISION No. 4118.

IN THE MATTER OF THE APPLICATION OF CITY RAILWAY COMPANY
OF LOS ANGELES FOR AN ORDER AUTHORIZING THE ISSUE OF
BONDS.

Application No. 2740.

Decided February 20, 1917.

Applicant authorized to issue and deliver to the Los Angeles Railway Corporation \$303,000.00 face value of its bonds at par to discharge indebtedness incurred to the latter company account construction of additions and betterments to its street railway lines.

S. M. Haskins, for Applicant.

EDGERTON, *Commissioner*.

OPINION.

In this application the City Railway Company of Los Angeles asks the Railroad Commission to authorize it to issue 303 of its bonds of a total par value of \$303,000.00 and to deliver them at par to the Los Angeles Railway Corporation in payment of moneys advanced to applicant by the Los Angeles Railway Corporation which have been invested in the plant of the applicant. The relation of the applicant to the Los Angeles Railway Corporation and the financing of the two companies is fully set forth in Decision 2193, dated March 3, 1915 (Volume 6, Opinions and Orders of the Railroad Commission of California, page 272), and is briefly reviewed in Decision 3098, covering Application 1977 (Volume 9, Opinions and Orders of the Railroad Commission of California, page 194), and it will, therefore, be unnecessary to go into these matters at this time.

In the last mentioned decision the commission authorized applicant to issue 280 of its bonds of a total par value of \$280,000.00 and including that issue a total of \$3,893,000.00 par value of bonds are outstanding at the present date out of an authorized bonded indebtedness of \$5,000,000.00.

Since the date of that last order applicant has spent some \$303,433.98, all of which, as it appears from the record made at the hearing on this application, is properly chargeable to capital and not to maintenance. This money was obtained from the Los Angeles Railway Corporation and the issue which applicant desires authority for herein is for the purpose of making a payment on account of this indebtedness.

There appears to be no reason why the permission sought should be withheld and I shall, therefore, recommend that this application be granted by the commission.

ORDER.

City Railway Company of Los Angeles having applied to the Railroad Commission of the state of California for an order authorizing the issue by said company of \$303,000.00 face value of its bonds at par to Los Angeles Railway Corporation on account of an existing indebtedness now due from applicant of \$303,433.98, and a public hearing having been held upon said application and the Railroad Commission finding that the purposes for which said bonds are herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the state of California does hereby authorize the issue at par by said City Railway Company of Los Angeles to Los Angeles Railway Corporation of

\$303,000.00 face value of principal of its bonds, in satisfaction and discharge of \$303,000.00 of its present indebtedness, to said Los Angeles Railway Corporation, incurred for certain improvements, betterments and extensions constructed by it for applicant and shown in detail in the exhibits accompanying the application, upon the following conditions and not otherwise, to wit:

1. City Railway Company of Los Angeles shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued and shall, within twenty days after the issue of any such bonds, make verified report to the Railroad Commission, stating the moneys realized therefrom and the use and application of such moneys.

2. The authority hereby granted shall apply only to such bonds as may have been issued on or before May 15, 1917.

3. The authority herein granted shall not become effective until City Railway Company of Los Angeles has paid the fee specified in section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 20th day of February, 1917.

Decisions Nos. 4119 and 4120, grade crossings; not printed. See end of volume.

DECISION NO. 4121.

IN THE MATTER OF THE APPLICATION OF DIAMOND AND CALDOR RAILWAY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF NINETY THOUSAND DOLLARS FIRST MORTGAGE BONDS.

Application No. 2765.

Decided February 21, 1917.

Applicant authorized to issue \$90,000.00 face value of its 5 per cent bonds to be sold at not less than 90, proceeds to be used, \$39,970.00 to purchase equipment, the balance to discharge indebtedness due The California Door Company.

W. Y. Kellogg, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

In this application Diamond and Caldor Railway seeks authority to issue \$90,000.00 face value of "first mortgage 5 per cent sinking fund twenty-year gold bonds," due and payable March 1, 1927. Applicant proposes to sell the bonds at not less than 90 per cent of their

face value plus accrued interest. Applicant desires to use the proceeds obtained from the sale of the bonds for the following purposes:

To purchase locomotive	\$15,000 00
To purchase 22 logging cars at \$1,135.00 each.....	24,970 00
To pay The California Door Company for advances.....	50,000 00
Total	<u>\$89,970 00</u>

Diamond and Caldor Railway was organized February 9, 1904, with an authorized stock of \$240,000.00, divided into 4,800 shares of the par value of \$50.00 each. The company owns a narrow gauge line of railway extending from Diamond Springs, El Dorado County, to Caldor, El Dorado County, a distance of 33 miles. Of the outstanding stock, The California Door Company owns 4,795 shares. It furnishes more than 99 per cent of the traffic of the road. It annually cuts and ships over the road from 12,000,000 to 13,000,000 feet of lumber. It now proposes to install additional facilities for cutting timber and increase its annual output by about 5,000,000 feet. W. Y. Kellogg, president for the company, reports that the door company owns about 600,000,000 feet of uncut timber.

On March 1, 1907, Diamond and Caldor Railway executed to Union Trust Company of San Francisco a deed of trust securing the payment of \$240,000.00 face value of bonds. These bonds are dated March 1, 1907, and mature March 1, 1927. They bear interest at the rate of 5 per cent per annum, payable semiannually. Heretofore, the company has issued bonds in the amount of \$150,000.00 of which \$34,000.00 have been redeemed through the sinking fund.

On November 27, 1908, Diamond and Caldor Railway entered into an agreement with E. H. Rollins & Sons, whereby the railway agreed that it would not sell any of its authorized \$240,000.00 face value of bonds unless the written consent of said E. H. Rollins & Sons had first been obtained. The evidence in this proceeding is to the effect that said E. H. Rollins & Sons have given their consent to the sale of the \$90,000.00 face value of bonds in question, provided the issue of the same is authorized by this commission. The payment of all of the bonds of the railway is guaranteed by The California Door Company. Assuming this application to be granted, applicant would have bonds in the amount of \$206,000.00 outstanding.

In Decision No. 2556, dated July 2, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission of California, page 499), the reproduction cost of the properties of Diamond and Caldor Railway as of June 30, 1912, was found to be \$539,629.76. The reproduction cost less depreciation was found to be \$453,770.95.

Using the market value of lands without the addition of multiples and other arbitrary percentages, the reproduction cost was found to be \$535,590.91, and the reproduction cost less depreciation \$449,732.10.

For the years ending June 30, 1913, 1914, 1915 and 1916, Diamond and Caldor Railway has reported revenues and expenses to this commission as follows:

Item	1913	1914	1915	1916
Operating revenues -----	\$74,613 95	\$63,464 57	\$56,846 99	\$69,869 98
Operating expenses -----	41,519 47	41,757 99	34,576 18	44,104 28
Net operating revenue -----	\$30,064 48	\$18,706 58	\$22,270 81	\$25,765 70
Taxes accrued -----	3,580 90	3,973 66	3,470 27	3,744 47
Operating income -----	\$26,483 58	\$14,732 92	\$18,800 54	\$22,021 23
Nonoperative income—hire of equipment -----	3,428 48	3,590 88	3,811 91	3,442 34
Gross income -----	\$29,912 06	\$18,323 80	\$22,612 45	\$25,463 57
Deductions—				
Interest on funded debt -----	\$6,000 00	\$6,750 00	\$6,271 00	\$5,950 00
Other interest -----	5,308 19	3,440 88	3,496 41	3,154 78
Total deductions -----	\$11,908 19	\$10,190 88	\$9,767 41	\$9,104 78
Net income for year -----	\$18,003 87	\$8,132 92	\$12,845 04	\$16,358 79

On June 30, 1916, Diamond and Caldor Railway reported to this commission its assets and liabilities as follows:

<i>Assets.</i>	
Investment in road and equipment -----	\$500,737 08
Cash -----	302 33
Due from agents and conductors -----	234 89
Miscellaneous accounts receivable -----	23,414 00
Material and supplies -----	1,701 72
Total -----	\$526,390 02
<i>Liabilities.</i>	
Stock outstanding -----	\$240,000 00
Bonds outstanding -----	116,000 00
Miscellaneous accounts payable -----	89,494 81
Other current liabilities -----	40 41
Accrued depreciation on equipment -----	6,721 91
Surplus -----	74,132 89
Total liabilities -----	\$526,390 02

In this application, applicant reports that since June 30, 1917, it has expended for additions and betterments amounts as follows:

Road -----	\$29,793 36
Equipment -----	62,357 51
Other general expenses -----	385 83
Total -----	\$92,536 70

The department of statistics and accounts of this commission has examined the foregoing expenditures and finds them to be approximately correct.

I herewith submit the following form of order:

ORDER.

Diamond and Caldor Railway having applied to this commission for authority to issue \$90,000.00 face value of "first mortgage 5 per cent sinking fund twenty-year gold bonds," due and payable March 1, 1927, and a public hearing having been held and the commission finding that the purposes for which the proceeds obtained from the sale of said bonds are to be used are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Diamond and Caldor Railway be and it is hereby authorized to issue \$90,000.00 face value of first mortgage 5 per cent sinking fund twenty-year gold bonds, due and payable March 1, 1927.

The authority hereby granted to issue said bonds is granted upon the following conditions and not otherwise:

1. Diamond and Caldor Railway shall sell said \$90,000.00 face value of bonds for cash at not less than 90 per cent of their face value plus accrued interest.

2. Diamond and Caldor Railway shall use the proceeds obtained from the sale of said \$90,000.00 face value of bonds for the following purposes:

(a) To purchase locomotive	\$15,000 00
(b) To purchase 22 logging cars at \$1,135.00 each	24,970 00
(c) To pay indebtedness due The California Door Company	50,000 00

Total	\$89,970 00
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3. Diamond and Caldor Railway shall keep separate, true and accurate accounts showing the receipts and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and shall make verified reports to the Railroad Commission in accordance with the commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority hereby granted shall not become effective until Diamond and Caldor Railway has paid the fee specified in section 57 of the Public Utilities Act.

5. The authority hereby granted shall apply only to such bonds as may have been issued on or before October 15, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 21st day of February, 1917.

DECISION No. 4122.

IN THE MATTER OF THE APPLICATION OF THE CITY OF EL CENTRO
FOR PERMISSION TO CONSTRUCT STREET CROSSING AT GRADE
ACROSS TRACKS OF SOUTHERN PACIFIC COMPANY.

Application No. 2694.

Decided February 21, 1917.

When the improvement of adjacent cross streets will considerably alleviate inconvenience caused by the nonexistence of an extremely dangerous crossing, passing, at grade, through the yards of a railroad where there is considerable train movement together with switching during seven or eight hours each day, permission for the construction of such a crossing will be denied. Application of city of El Centro to construct crossing at grade across the tracks of Southern Pacific Company in said city denied.

J. L. Larew, for Applicant.

George D. Squires, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

This application was heard by Examiner Encell at El Centro on February 7, 1917.

The city of El Centro asks permission herein to construct Broadway, an east and west street 80 feet in width, which lies between and parallel to Main street and Commercial avenue, at grade over the tracks of Southern Pacific Company. Commercial avenue is 300 feet north of Broadway, Main street is the same distance to the south; both are 80-foot streets open across the tracks and are connected with Broadway by Third street, 600 feet east of the railroad right of way, and Fourth street 200 feet west. Main street is the principal east and west street through the business section of El Centro and is well improved.

The right of way of the Southern Pacific Company at Broadway is 300 feet in width. It runs through El Centro in an approximate north and south direction, and has, in addition to the main line track, four spur tracks, a passing track and a siding across Broadway; making seven tracks in all.

The city bases its desire for the proposed crossing on two general grounds; first, that it is needed to give convenient access to the two industries located on Broadway east of the track, and the second being that its opening would permit traffic to be diverted from Main street, which, it is stated, is now congested at certain times of the year.

The Southern Pacific opposes the opening of the crossing, alleging that it would be hazardous to street traffic, would be blocked during a large part of the time and would so divide the El Centro yard that

the company's facilities would be cramped to such an extent that it would be difficult to handle the El Centro business.

To take the Southern Pacific Company's objections first, it is apparent that any crossing over several tracks would be dangerous even with the most efficient means of protection, and that it would be more than usually dangerous here, where the seven tracks are so spaced that two are on the extreme west side of the right of way, one on the extreme east line 300 feet away, and four are in the center of the station reservation. This is especially so since the train movements over these tracks are extensive. They consist of four passenger trains daily, three regular freight trains, with occasionally extra trains and switching in the yards estimated as being carried on from seven to eight hours out of the twenty-four. In addition to this train service of the Southern Pacific Company the Holton Interurban Railroad operates several trains daily across this street.

If the crossing is opened it is clear that with but 300 feet between it and the next adjacent streets, in both directions, the necessary switching would inevitably block the street for considerable periods each day and it seems probable that the train service will be increased in the near future. The San Diego and Arizona Railway, when it is completed, will use the station facilities of the Southern Pacific Company between Main street and Commercial avenue, which will mean that its trains will also have to cross Broadway. Further than this it appears that there will have to be new tracks constructed to permit of the interchange of freight between these two companies and this, in addition to the natural increase of the Southern Pacific Company's own facilities, which will be necessary to serve an active and growing city like El Centro, indicates that considerable additional trackage and additional train service will be needed. The best interests of both the railroad and the city will not be served by permitting the railroad facilities to become congested if it can in any way be avoided.

The two reasons advanced by the city for opening the crossing seem to be inadequate to offset the danger to the public and the interference of the track facilities of the railroad which would follow. The representatives of the two industries located on Broadway east of the track testified at the hearing. While one of them is undoubtedly put to some inconvenience, it appears that the principal inconvenience suffered by the other is occasioned by the dust which arises from a temporary road between Main street and Broadway on the east side of the railroad's right of way.

While it is possible that during certain seasons of the year there may be congestion at the Main street crossing, the evidence is not convincing that it is of sufficient importance to require the opening of a new crossing which would be difficult to protect, and exceedingly

dangerous unless protected, to relieve it, especially since it appears probable that both this congestion and the inconvenience suffered by the industries east of the track would to a large extent be eliminated by the improvement of adjacent cross streets and the streets leading to other crossings.

ORDER.

City of El Centro having applied to the commission for permission to construct Broadway at grade over the tracks of Southern Pacific Company, and a public hearing having been held and it appearing that public necessity and convenience do not at this time require a crossing at Broadway,

It is hereby ordered that this application be and the same is hereby denied.

Dated at San Francisco, California, this 21st day of February, 1917.

DECISION No. 4123.

C. SWANSTON & SON

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 997.

Decided February 21, 1917.

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1. Shipments of fresh meats moving from Sacramento to Stockton, San Francisco or Oakland under a bill of lading marked "Car fully iced, refrigeration attention of any kind unnecessary," can not be assessed an extra charge of \$5.00 covering refrigeration inspection, etc., in addition to the regular freight rates.
 2. The mixing of salt with ice in refrigerator cars is a common practice when shipping meats throughout the state of California and does not result in undue damage to cars.
 3. The collection of a refrigeration charge on meat shipments moving Sacramento to San Francisco while no such charge is assessed on shipments moving South San Francisco to Sacramento is clearly discriminatory and in violation of section 17 of the Public Utilities Act. If the rate adjustment between such points is not proper it should be corrected by a change in rates and not be the collection of a refrigeration charge.
 4. A carrier cannot by its individual tariff cancel, amend or modify a tariff filed by a duly authorized agent except when a corresponding amendment to agent's tariff is concurrently filed, nor can it increase a rate without a showing before the commission justifying such increase.
 5. Defendants required to discontinue the collection of a refrigeration charge on above shipments and to refund to complainant, with interest, all such amounts heretofore collected.

L. A. Bailey, for Complainant.

C. W. Durbrow and *Frank B. Austin*, for Defendant.

Sanborn & Rochl, for Western Meat Company, Intervener.

John S. Willis, for Miller & Lux.

BY THE COMMISSION.

OPINION.

This case was brought by George Swanston, an individual conducting a wholesale butcher business under the firm name and style of C. Swanston & Son, who in his amended complaint alleges, among other matters, that complainant has for some time past been shipping, over defendant's lines, fresh meat in carload lots in refrigerator cars under ice from Sacramento and Swanston, Sacramento County, to San Francisco, Oakland and Stockton; that such refrigerator cars have been initially iced by complainant at Swanston with sufficient ice to enable safe transportation under reasonable dispatch to the respective destinations without re-icing en route or receiving any other service in transit aside from the hauling of the car; that the lawful rate of transportation upon complainant's carload shipments of fresh meats from Swanston to Oakland or San Francisco is \$3.60 per ton, and to Stockton \$1.80 per ton; and that complainant's shipments have since March 15, 1915, been subjected to an additional charge by defendant for refrigeration services of \$5.00 per carload, although no re-icing or inspection in transit has been requested by complainant.

The amended complaint proceeds to state that complainant has the right to ice refrigerator cars at point of shipment, delivering the cars so prepared to defendant with instructions to transport the same to destination without opening the bunkers or breaking the car seals, and that defendant has not the right to disregard such instructions when given; that complainant has protested against any additional charge in excess of said respective rates of \$3.60 and \$1.80 per ton, but without avail.

Complainant concludes by praying that this commission find that the prevailing rates of \$3.60 and \$1.80 per ton, respectively, on minimum carload weights of 20,000 pounds cover the full transportation service rendered by defendant on shipments of fresh meat from Swanston and Sacramento to San Francisco and Oakland and to Stockton, or that the commission fix and determine a reasonable and non-discriminatory charge for defendant's full service on such shipments; and furthermore, that defendant be required to pay complainant by way of reparation, for the alleged unlawful and discriminatory charges collected, the difference between the amounts collected and those which would have been collected under the charge or rate found reasonable and nondiscriminatory on all shipments that have moved from and to the points complained of since March 15, 1915.

The answer in effect denies that defendant has made or collected any improper charges from the complainant upon the movements of fresh meat referred to in the amended complaint, and while stating that

defendant has, when necessary, re-iced such shipments in transit and has assessed an additional charge for so doing, denies that said service has been or was unnecessary or that the charge therefor was or is excessive or unreasonable, and takes issue with most of the allegations of the amended complaint above set forth.

A public hearing was held in San Francisco on November 13, 1916, before Examiner Bancroft.

At the close of the hearing the case was submitted upon briefs to be filed by the parties to the action and by the intervener. These briefs having been filed the case is ready for decision.

From the evidence it appears that for a number of years complainant has been making carload shipments of fresh meat to San Francisco, Oakland and Stockton from its place of business, which was first located in Sacramento and later at Swanston (about $4\frac{1}{2}$ miles east of Sacramento), all of which shipments were made in refrigerator cars, pre-iced by complainant. The shipments thus prepared have been moving under instructions from complainant on the bill of lading, reading "Car fully iced, refrigeration attention of any kind unnecessary," and have been, so far as the evidence shows, practically always carried to their respective destinations without being re-iced. These shipments moved under the rates above referred to, of \$3.60 and \$1.80 per ton, respectively, as set forth in the amended complaint, until March 15, 1915, when defendant began to assess an additional charge of \$5.00 per car for refrigeration services over and above the then existing rates.

Even when complainant's plant was located at Sacramento, where defendant had icing facilities, complainant had always done its own icing. Defendant has no icing facilities at Swanston and if it were to perform the initial icing it would be necessary for this to be done either at Sacramento or at Roseville (some 13 miles east of Swanston), and it would probably be necessary for defendant, in addition, to have an emergency icing plant at Swanston. It further appears that complainant has installed facilities for icing cars at Swanston at an expense of about \$10,000.00.

There was a slight conflict in the evidence as to whether the icing was performed by complainant in such a manner as to cause unnecessary damage to the cars, but in our opinion defendant entirely failed to prove its contention in this respect. It appears that the ice is broken on the upper floor of complainant's plant into pieces averaging about six inches in diameter and from there is conveyed by means of a chute into a bin or hopper-car, located slightly above and at the side of the refrigerator car bunker, where the fall of the ice is broken. The ice is then fed through a door in this hopper-car by means of another chute into the adjacent refrigerator car bunkers. The car

bunkers are thus loaded with broken ice to their capacity of about 4,000 pounds each, or 8,000 pounds in all, no ice being placed in the body of the car. The ice is never claimed by complainant at the end of the haul.

The longest shipment under consideration in this case is from Swanton to San Francisco, the cars moving via Benicia, leaving Swanton about 7:30 p.m. and consuming approximately twelve hours in transit.

It further appears that in spite of complainant's request, the cars are inspected by defendant at Sacramento, defendant claiming that this is done in order to prevent damage resulting from stoppage of the drains by impurities or improper icing, while complainant claims that the inspection is made for the purpose of ascertaining if defendant's equipment is in order. In any event the cars are transferred to defendant's icing platform for inspection and are then switched back to the main track.

The evidence further shows that throughout the entire course of complainant's shipping of fresh meat under ice, no claim has ever been made by it against defendant for damage to its meat in transportation, by reason of faulty or defective refrigeration.

Defendant introduced considerable evidence as to the deleterious effect upon all parts of its refrigerator cars caused by the salt which is mixed with the ice, but the evidence showed that salt is mixed with ice in the bunkers in practically all shipments of fresh meat in this state; and that this has been the practice in the past.

The evidence further shows that from 1905, when complainant first began carload shipping, to March 15, 1915, defendant charged complainant only the prevailing third-class rate, Western Classification, but that since the last mentioned date defendant has been charging, in addition to the third-class rate, \$5.00 per car for refrigeration services, for which no service is rendered by defendant which was not rendered prior to March 15, 1915. No authority was obtained from this commission for increasing the rates applicable to complainant's shipments.

The case at bar presents the following salient features for consideration:

1. Discrimination as between localities.
2. Lawfulness of refrigeration charge assessed by carrier in addition to freight rate;

which will be dealt with in regular sequence.

Discrimination.

Plaintiff's shipments are chiefly to San Francisco and Oakland which, owing to a greater demand, afford a much better market than Stockton; San Francisco may therefore be taken as typical of the situation.

Shipments from South San Francisco to San Francisco, pre-iced by shippers, are not subjected to refrigeration charge, while on similiar traffic from Sacramento a charge of this kind is made in addition to freight rate.

Viewed in another light, the freight rates from Swanston to San Francisco and from South San Francisco to Sacramento are equal, but a refrigeration charge is collected from the Swanston shippers while in the opposite direction this charge is not assessed, all of which is acknowledged by defendant to be discrimination.

Assuming the freight rates to be equitably adjusted a situation of this kind is apparently discriminatory and in violation of section 17 of the Public Utilities Act. If the rate adjustment is not proper it should be corrected by a change in the freight rates and not by imposition of a refrigeration charge.

Lawfulness of Refrigeration Charge.

Before proceeding to discuss this point some enlightenment will be gained by review of the various tariffs appertaining thereto:

The first refrigeration tariff filed with this commission was defendant's Local Refrigeration Tariff No. 79-B (C. R. C. No. 17), effective September 15, 1908, naming charges for refrigeration of perishable freight between points shown therein and carrying note on title page, "Refrigeration charges and charges for ice named in this tariff are in addition to the regular rates of transportation charged by carriers."

Local Tariff 79-B was superseded by Local and Joint Refrigeration Tariff 359-D (C. R. C. No. 1601), effective July 27, 1912. This tariff formerly applied to interstate traffic only and when Local Tariff 79-B was incorporated therein the local rates within California became subject to the general rules carried in the interstate tariff.

Tariff 359-D was canceled effective March 15, 1915, in so far as its application to intrastate traffic was concerned, such rates and regulations being concurrently published in defendant's Local and Joint Refrigeration Tariff No. 810 (C. R. C. No. 1874) which substantially continues in effect the items in Tariff 359-D, quoted above, and also contains section No. 2, reading:

Section 2.

"CHARGES FOR REFRIGERATION SERVICE OF ALL CARLOAD SHIPMENTS OF:

Fresh meat, packing house products, dressed poultry, butter, butterine, oleomargarine, cheese, eggs, milk and cream, in straight or mixed carloads, *when cars are initially iced by shipper* (see Note 1), *between points in California, as described below.*"

Then follows table of rates between the different group points in which appears the \$5.00 refrigeration charge subject of complaint:

Note 1, alluded to above, reads:

"NOTE 1—Any car requiring re-icing in transit will be accepted under above rates, only when shipper ices car to full capacity at point of origin. Any car requiring re-icing in transit, NOT iced to capacity by shipper at point of origin will be subject to charges shown under section 1 of this tariff."

Directing our attention to the classification it is found that Western Classification No. 51 (C. R. C. No. 75), effective February 14, 1913, contained Rule No. 29, which was republished under same number in succeeding issues and now appears as Rule 29 of Western Classification No. 54 (C. R. C. No. 143) following:

Rule 29—*"Refrigeration of freight in carloads.*

Section 1. Unless otherwise provided, carload ratings do not include the expense of refrigeration. Charges for refrigeration, when furnished by the carrier, will be found in the carrier's tariffs.

Section 2. No allowance in weight will be made for ice or other preservative placed in the same package with the freight.

Section 3. When ice or other preservative is in bunkers of the car no charge will be made for its transportation; but if the ice is taken by consignee, charges shall be made on actual weight of the ice in bunkers at destination and at carload rate applicable on the freight which it accompanies; if not taken by consignee it becomes the property of the carrier.

Section 4. When ice or other preservative is loaded in body of car with freight, provided the rules of the carriers do not prohibit such loading, no charge will be made for its transportation; but if taken by consignee, charges shall be made on actual weight of the ice or other preservative in car at destination and at carload rate applicable upon the freight which it accompanies; if not taken by consignee it becomes the property of the carrier."

Defendant relies upon section 2 of its Refrigeration Tariff No. 810 for collection of refrigeration charge of \$5.00 in addition to freight rate, while complainant, placing its dependence upon section 3, Rule 29, of Western Classification, contends that collection of refrigeration charge is unjustified where refrigeration is performed by shipper.

Section No. 2 of Refrigeration Tariff No. 810, above quoted, imposes a charge for refrigeration when cars are initially iced by shipper and, in determining whether carrier is justified in collecting refrigeration charge, we must first ascertain if it renders a refrigeration service for which it is entitled to make an additional charge.

It is shown that cars are pre-iced by shippers and transported to destination by carrier without re-icing. What service then is performed in the way of refrigeration?

The Interstate Commerce Commission, in the matter of pre-cooled shipments, *Arlington Heights Fruit Exchange vs. Southern Pacific Company* (20 I. C. C. 106), comments on what constitutes refrigeration service in the following manner:

“The question therefore is, Does the shipper in case of these pre-cooled shipments demand of the carrier any refrigeration service? Does the carrier in the case of such shipments render any service in addition to the naked transportation?

“These cars are prepared by the shipper and are delivered to the carrier with instructions to transport to destination without opening the bunkers or breaking the seals. The entire duty of the carrier is discharged when it places that car in its train and hauls it to its destination.

“It is urged that the defendants can not stipulate against the consequences of their own negligence and that they ought not to be required to assume the responsibility unless they are allowed to discharge the service. But what responsibility is it that the carriers assumed in connection with the transportation of one of these pre-cooled cars? Clearly there is no responsibility in the matter of refrigeration. The carrier is simply required to haul that car to its destination. That duty it must perform and it must perform it within a reasonable time and in a reasonable manner.” (p. 116.)

And again in the same case,

“The fact that refrigeration is required and the circumstances under which it is called for and furnished render it necessary to use a refrigerator car as a practical matter for the transportation of these citrus fruits at all periods of the year. In determining the freight rate this fact has been taken into account; that is, the rate applied on shipments under ventilation has been adjusted in view of the fact that a refrigerator car, more expensive than the ordinary box car, must, as a practical matter, be employed. Hence, in determining the additional sum which the shipper who has the benefit of refrigeration shall pay, nothing should be added by reason of the fact that a car of this type is used.” (p. 108.)

In I and S, Docket No. 514, *West Bound Trans-Continental Refrigeration Charges* (34 I. C. C. 140), carriers proposed to establish charges for refrigeration on perishable commodities iced by shippers and delivered to the transportation companies with instructions not

to re-ice in transit, this movement having previously taken place under the freight rates only without collection of refrigeration charge.

The situation there presented is directly in point, as the following excerpt illustrates:

"The charges proposed here are not for a new service in transportation, but for an established service. Practically all of the perishable commodities shipped west from Missouri River territory always have been pre-cooled, as they all require refrigeration as soon as possible in the course of their production, and detention in cold storage until transported. Many of the commodities are so cold when loaded into cars that but for the insufficient insulation of the cars no ice would be necessary. Their shipment under refrigeration with notice to the carriers not to re-ice them in transit is as old as their transportation. It can not be said, therefore, that respondents are entitled to furnish refrigeration in transit or that a new kind of transportation service is required.

"* * * the schedules involved provide that when ice or other preservative is in the bunkers of the cars, or is loaded in the body of the car with the freight shipped, no charge will be made for its transportation. These rules have been in effect for a long time and indicate plainly that the related freight rates always have included refrigeration charges, including compensation for hauling the ice used for refrigeration, damage to ice bunkers, and for supervision." (p. 142.)

In view of the fact that these shipments had universally been moving under ice, mixed with salt, for a number of years prior to the establishment of the third-class rate now under consideration, and giving due consideration to all the other circumstances of this case, we find that any charges which defendant was entitled to make either for damage to its cars from ice or salt or for cost of hauling the ice or extra switching and inspection should have been, and presumably were, taken into consideration when the \$3.60 and \$1.80 rates were established by defendant.

It is our opinion that defendant has failed to establish the fact that it has rendered a refrigeration service on these shipments for which it is entitled to additional compensation.

Treating the question from a purely tariff standpoint, section 3, Rule 29, of Western Classification authorizes free transportation of ice in bunkers of car. Defendant contends this rule should be read in its entirety and that section 1 permits modification of the item by provisions of Refrigerator Tariff 810. The Western Classification is filed with this commission for defendant by F. W. Gomph, acting as agent under power of attorney.

Rule 9-B of the commission's Tariff Circular No. 2 specifies that "A carrier may not by its individual tariff cancel, amend or modify a tariff filed by a duly authorized agent, except when corresponding amendment to such agent's tariff is filed at the same time and as per paragraph (a) of this rule." Therefore, the rule in Western Classification can not be lawfully amended except by supplement to the classification itself.

Furthermore, section 63 (a) of the Public Utilities Act provides that:

"No public utility shall raise any rate, fare, toll, rental or charge or so alter any classification, contract practice, rule or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatever, except upon a showing before the commission and a finding by the commission that such increase is justified."

Evidence discloses that no charge for refrigeration had ever been made on complainant's shipments prior to March 15, 1915, but on that date defendant, by application of section 2 of its Refrigeration Tariff 810, commenced to assess such charge. This section is symbolized as a reduction but in reality it is an increase and was not supported by application required under section 63(a) of the act; nor were Rules 1 and 6 of the preceding tariff, No. 359-D, authorized under 63 application.

Defendant should so amend its Refrigeration Tariff 810 as to make it perfectly clear that the refrigeration rates named therein are not applicable to shipments pre-iced by shippers and not re-iced in transit, moving under Rule 29 of the Western Classification.

It is our opinion, after reviewing the evidence in this case, that charges assessed by defendant for refrigeration service on carload shipments of fresh meat from Swanston and Sacramento to Stockton, Oakland and San Francisco are discriminatory as between localities.

In view of the fact that carrier is not according a refrigeration service to these shipments for which it is entitled to make an additional charge, and has failed lawfully to set aside the provisions of section 3, Rule 29 of Western Classification, we are of the opinion the refrigerator charge of \$5.00 per car is unsupported by tariff publication and therefore in violation of section 17 of the Public Utilities Act. Furthermore, that the lawful rates on fresh meats, carloads, pre-iced by shipper and not re-iced en route, are from Swanston and Sacramento to Stockton \$1.80 per ton and to San Francisco and Oakland \$3.60 per ton, subject to Rule 29 of Western Classification No. 54 (C. R. C. No. 143).

We find that complainant was overcharged on its pre-iced shipments of fresh meat forwarded from Swanston and Sacramento to Stockton,

Oakland, and San Francisco, beginning March 15, 1915; that it paid and bore the charges thereon and that it is entitled to reparation with interest.

ORDER.

C. Swanston & Son having complained to the commission that charge of five dollars (\$5.00) per car assessed by the Southern Pacific Company for refrigeration service on earload shipments of fresh meats, pre-iced by shipper, from Swanston and Sacramento to Stockton, Oakland and San Francisco, is unreasonable, excessive, unjust and discriminatory, and a public hearing having been held and the commission being fully apprised in the premises and basing its order upon the findings of fact which appear in the opinion preceding this order,

It is hereby ordered that the Southern Pacific Company cease from the collection of charges under section 2 of its Refrigeration Tariff No. 810 (C. R. C. No. 1874) where cars are initially iced by shipper and tendered to carrier with instructions not to re-ice en route and no re-icing is performed.

It is further ordered that the Southern Pacific Company refund to C. Swanston & Son within sixty (60) days from date of this order a sum equal in amount to the charges unlawfully collected, with interest at rate of 7 per cent per annum from date of collection.

It is also further ordered that if C. Swanston & Son and Southern Pacific Company can not agree upon amount of refund due under this order, said parties, or either of them, may appear before this commission and submit proof, whereupon the commission will determine amount to be paid.

Dated at San Francisco, California, this 21st day of February, 1917.

Decisions Nos. 4124, 4125, 4126, 4127, grade crossings; not printed.
See end of volume.

DECISION No. 4128.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA SOUTHERN
RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CON-
VENIENCE AND NECESSITY.

Application No. 2412.

Decided February 26, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having made written request that said application be dismissed,

It is hereby ordered that the application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 26th day of February, 1917.

DECISION No. 4129.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT FOR PACIFIC FREIGHT TARIFF BUREAU, FOR AUTHORITY TO INCREASE MINIMUM CARLOAD WEIGHTS AS PUBLISHED IN BUREAU EXCEPTION SHEET NUMBER 1-D, C. R. C. 90, BUREAU TARIFFS AND TARIFFS OF INDIVIDUAL LINES, APPLYING BETWEEN POINTS IN CALIFORNIA.

Application No. 1753.

Decided February 26, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in above entitled proceeding having, on February 21, 1917, made written request to this commission that the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 26th day of February, 1917.

DECISION No. 4130.

W. R. BACKENBERG ET AL.

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1030.

Decided February 26, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainants in above entitled proceeding having, on February 23, 1917, made written request to this commission that the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 26th day of February, 1917.

DECISION No. 4131.

IN THE MATTER OF THE APPLICATION OF TRINITY GOLD MINING AND REDUCTION COMPANY AND CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER AUTHORIZING THE SALE AND PURCHASE OF THE WHOLE OF THE PLANT OR SYSTEM OF TRINITY GOLD MINING AND REDUCTION COMPANY BY CALIFORNIA-OREGON POWER COMPANY.

Application No. 2731.

Decided February 28, 1917.

Trinity Gold Mining Company authorized to sell its hydroelectric generating plant to the California-Oregon Power Company for the sum of \$22,500.00.

R. H. Cross, for Trinity Gold Mining and Reduction Company.

Morrison, Dunne & Brobeck, by Herman H. Phlegor, for California-Oregon Power Company.

BY THE COMMISSION.

OPINION.

The above-entitled proceeding was heard by Examiner Harry A. Encell at San Francisco, California, February 19, 1917.

In the application, Trinity Gold Mining and Reduction Company asks permission to sell its hydroelectric plant, including its transmission and distribution system, to California-Oregon Power Company for \$22,500.00 cash. The power plant of Trinity Gold Mining and Reduction Company, having a generating capacity of 320 kilowatts, is located near Carrville, Trinity County. The electrical plant was built for the purpose of furnishing power to the Headlight Mine, owned by the same interests who own and operate the power plant. The power plant was designed and constructed primarily for the purpose of supplying the needs of the company in its mining business. The operation of the Headlight Mine was suspended in 1912, and shortly thereafter the Trinity Gold Mining and Reduction Company entered into a contract to supply 250 kilowatts of electrical energy to Alta Bert Dredging Company, operating a gold dredger near Trinity Center. Recently the properties of the Alta Bert Dredging Company have been acquired by W. H. Estabrook.

In addition to the 320 kilowatt generating plant, the Trinity Gold Mining and Reduction Company owns about six miles of transmission line. For a more specific description of this property, which it proposes to sell to California-Oregon Power Company, reference is here made to Exhibit "A" attached hereto.

Pursuant to Decision No. 3313, dated May 8, 1916, California-Oregon Power Company has constructed a transmission line from Castella, Shasta County, to Trinity Center, Trinity County. It pro-

poses to use the plant which it desires to acquire as an auxiliary supply for power. In the event that its transmission line should go out, it will be able to obtain enough electrical energy through the operation of this plant to continue to furnish electrical energy for lighting purposes and for repair work on the gold dredgers.

The evidence introduced in support of this application shows that the money necessary to purchase the plant has been furnished by J. D. Grant, president of California-Oregon Power Company and Vice President John D. McKee. It appears to be the intention of the company, however, to resell the plant to W. H. Estabrook, who, as stated above, has acquired the properties of Alta Bert Dredging Company. Thereafter the California-Oregon Power Company will lease the plant from said W. H. Estabrook for a period of ten years and pay as a rental for the use and possession of said property a sum equal to the difference between seven and five-tenths mills per kilowatt hour, the rate fixed by its power contract with said W. H. Estabrook, and six and three-tenths mills, the rate to be put into effect if this transaction is consummated.

Upon the termination of the lease, the power company agrees to purchase the plant at the same price paid for it by said W. H. Estabrook, such price not to exceed \$25,000.00. In effect said W. H. Estabrook is advancing the money to purchase the plant.

The commission, however, at this time is merely asked to pass upon the application of Trinity Gold Mining and Reduction Company to sell its plant to California-Oregon Power Company. Any subsequent transactions will be subject to future applications to this commission.

ORDER.

Trinity Gold Mining and Reduction Company having applied to the Railroad Commission for authority to sell its hydroelectric plant described in Exhibit "A" hereto attached to California-Oregon Power Company for \$22,500.00, and a public hearing having been held and it appearing to this commission that the application should be granted,

It is hereby ordered that Trinity Gold Mining and Reduction Company be and the same is hereby authorized to sell to California-Oregon Power Company for the sum of \$22,500.00 cash its hydroelectric plant and property described in Exhibit "A" attached to this decision.

The authority hereby granted is granted upon the following conditions, and not otherwise:

1. The price at which the properties of Trinity Gold Mining and Reduction Company are transferred to California-Oregon Power Company shall not be binding upon this commission or any other public body as representing the value of said properties for rate making or other purposes.

2. The authority to transfer the property described in Exhibit "A" attached hereto shall apply only to such property as has been transferred on or before May 1, 1917.

3. Within thirty (30) days after the transfer herein authorized to be made has been made, California-Oregon Power Company shall report that fact to the commission and shall file with the commission a certified copy of the conveyance.

Dated at San Francisco, California, this 28th day of February, 1917.

EXHIBIT "A."

The property which Trinity Gold Mining and Reduction Company proposes to sell to California-Oregon Power Company, is described in applicant's Exhibit No. 3, filed February 2, 1917, as follows:

1. All that certain water right and water appropriation as made by David Goodale on the 16th day of April, 1909, the Notice of Location of which is recorded in Book 2 of Water Notice Records of Trinity County, at page 600 thereof, and to which reference is hereby made for a more particular description and which said water right and water appropriation was conveyed by said David Goodale to the party of the first part by deed dated May 1, 1909, and recorded in the office of the County Recorder of said Trinity County on the 18th day of August, 1909, in Volume 33 of Deeds, at page 753.

2. All that certain water right and water appropriation as made by the party of the first part on the 14th day of August, 1909, the Notice of Location of which was recorded in Book 2 of Water Notice Records of said Trinity County, at page 606 thereof, on August 18, 1909, and to which record reference is made for a more particular description.

3. A right of way for a ditch and flume and pipe line as surveyed, located and constructed over and across the south one-half of the north one-half of Section Seven (7), Township thirty-seven (37) North, Range Seven (7) West, Mount Diablo Base and Meridian; thence across the southwest quarter of the northwest quarter of section eight (8), said township and range; thence across the northwest quarter of the southwest quarter of said section eight (8), said township and range; thence across the southwest quarter of the southwest quarter of said section eight (8), said township and range; thence across the northwest quarter of the northwest quarter of Section seventeen (17), said township and range, to the power house of said Trinity Gold Mining and Reduction Company, situated on lands derived from Carr, from which the common corner of sections seven (7) and eight (8), seventeen (17) and eighteen (18), township thirty-seven (37) North, Range Seven (7) West, Mount Diablo Base and Meridian, bears North 50° 54' West one thousand, six hundred eighty-six (1,686) feet, and which said right of way is described as follows, to wit:

Beginning at a point at the edge of the water on the South bank of Coffee Creek, from which the quarter section corner on the west boundary of Section Seven (7), Township Thirty-seven (37) North, Range Seven (7) West, Mount Diablo Base and Meridian bears South 42° 30' West, one thousand three hundred eighty-eight (1388) feet distant, and running thence, the variation of the Magnetic Needle being 20° East, as determined June 7th, 1909, along the south and west side of flume or side next to the bank, the flume is four feet wide and three feet deep, on a grade of 10.55 feet to one mile.

Sta- tion	Bearing	Distance in feet	
1	N. 32° E.	45	
2	N. 50° E.	44	
3	N. 83° E.	210	
4	S. 80½° E.	160	
5	S. 76° 10' E.	83	
6	S. 73° E.	81	
7	S. 83° 10' E.	132	
8	N. 76° 35' E.	35	
9	N. 70° 20' E.	167	
10	N. 62° 22' E.	101	
11	N. 55° 10' E.	58	
12	N. 60° 55' E.	98	
13	S. 86° 25' E.	194	
14	S. 70° E.	95	
15	N. 83° 30' E.	175	
16	S. 82° 45' E.	91	
17	S. 61° 05' E.	130	
18	N. 76° 30' E.	68	
19	N. 70° 45' E.	217	
20	N. 47° 50' E.	88	
21	S. 87° 55' E.	104	
22	N. 41° 45' E.	177	
23	N. 53° 50' E.	74	
24	N. 66° 05' E.	173	
25	N. 73° E.	153	
26	N. 44° 40' E.	105	
27	N. 74° 07' E.	251	
28	N. 70° 47' E.	63	
29	S. 89° 33' E.	103	
30	S. 72° 08' E.	167	
31	S. 79° 58' E.	201	
32	S. 88° 23' E.	155	
33	N. 74° 37' E.	205	
34	N. 76° E.	162	from which the 1 section corner between sec- tions 7 and 8, Township 37 N., R. 7 W. M. D. B. and M. bears South 780 feet distant; thence
35	S. 72° 20' E.	83	
36	S. 55° 17' E.	68	
37	S. 38° 27' E.	107	
38	S. 17° 20' E.	225	
39	S. 12° 05' E.	151	
40	S. 11° 27' E.	139	
41	S. 6° 27' W.	132	
42	S. 17° 13' W.	83	
43	S. 14° 12' E.	78	
44	S. 5° 10' E.	165	
45	S. 34° 36' E.	99	
46	S. 7° 35' E.	315	
47	S. 19° 35' E.	155	
48	S. 6° 52' E.	132	
49	S. 10° 28' W.	250	
50	S. 11° 18' W.	62	
51	S. 28° 07' E.	120	
52	S. 20° 52' E.	22	
53	S. 52° 12' E.	208	

Sta- tion	Bearing	Distance in feet	
54	S. 23° 30' E.	135	
55	S. 3° E.	117	
56	S. 18° 7' E.	250	
57	S. 0° 25' E.	113	
58	S. 16° 05' W.	118	
59	S. 25° 15' E.	175	
60	S. 20° 25' E.	75	
61	S. 38° 05' E.	125	Corner to Sections 7, 8, 17 and 18, twp. 37 N. R. 7 W. M. D. B. M. bears North 87° West 854 feet distant; thence
62	S. 56° 08' E.	63	
63	S. 27° 18' E.	123	
64	S. 9° 43' E.	105	
65	S. 1° 58' E.	131	
66	S. 4° 37' W.	133	
67	S. 17° 47' W.	64	
68	S. 54° 30' W.	103	
69	S. 49° 30' E.	570	to the power house

on Carr's land, from which the corner to sections seven (7), eight (8), seven-teen (17) and eighteen (18), township thirty-seven (37) north, Range seven (7), West, Mount Diablo Base and Meridian, bears north 50° 54' West, one thousand six hundred eighty-six (1686) feet distant.

4. All the right, title and interest in and to rights of way for a ditch, flume and pipe line derived in and by the following conveyances to said Trinity Gold Mining and Reduction Company:

(a) Deed from Central Pacific Railway Company and United States Trust Com-pany of New York, dated March 17, 1916, and recorded April 28, 1916, in Book 38 of Deeds, at page 285, Trinity County records;

(b) Deed from George H. Blagrave and Ada A. Blagrave, dated August 21, 1909, recorded on the 4th day of December, 1909, in Book 34 of Deeds, at page 118, Trinity County Records;

(c) Deed from H. F. Coffman and Anna R. T. Coffman, dated September 1, 1909, and recorded on the 4th day of December, 1909, in Book 34 of Deeds, at page 119, Trinity County Records;

(d) Deed from George L. Carr and Mary Alice Carr, dated September 24, 1909, and recorded December 4, 1909, in Volume 34 of Deeds, at page 121, Trinity County Records;

5. All the right, title and interest of said Trinity Gold Mining and Reduction Company derived from the permission granted to said Trinity Gold Mining and Reduction Company by the Department of the Interior of the United States of America on March 15, 1911, to locate a ditch and flume across the lands of the United States of America, and situated in the northwest quarter of the southwest quarter of section eight (8), township thirty-seven (37) North, range seven (7) West, Mount Diablo Base and Meridian;

6. All that certain lot, piece or parcel of land situate, lying and being in the County of Trinity, State of California, and more particularly described as follows, to wit:

Commencing at a point which bears N. 0° East, 100 feet from the Southeast corner of the Northwest quarter of the northwest quarter of Section Seventeen (17) Township thirty-seven (37) North, Range Seven (7) West, which is Station Number 1, and is a Cedar, nine (9) inches in diameter, from which a black oak, twelve (12) inches in diameter bears South twenty (20) degrees west seven (7)

feet; thence North 87° West, two hundred and fifty (250) feet, crossing Coffee Creek at eighty (80) feet, being forty (40) feet wide, to Station Number 11; thence north two hundred seventy-five (275) feet, crossing Coffee Creek Road at two hundred twenty-five (225) feet to Station Number 111, being oak, four (4) inches in diameter, from which a yellow pine sixteen (16) inches in diameter, bears South thirty-seven (37) feet; thence South eighty-seven degrees (87°) east, two hundred fifty (250) feet, crossing Carr's ditch at two hundred thirty (230) feet to Station Number IV, being a pine stake 2 x 4 inches, from which a double cottonwood thirty-six inches in diameter bears south fifty-five (55) feet; thence South two hundred seventy-five (275) feet to Station Number 1, the point of beginning, crossing Coffee Creek at one hundred sixty (160) feet, being forty (40) feet wide. Said inclosure contains an area of 1.5 acres, more or less. All bearings true; being the same land conveyed to Trinity Gold Mining and Reduction Company by deed dated September 24, 1909, from George L. Carr and Mary Alice Carr, and recorded in the office of the County Recorder of Trinity County on the 4th day of December, 1909, in Volume 34 of Deeds, at page 121;

7. All the right, title and interest of the said Trinity Gold Mining and Reduction Company in and to the ditch, flume and pipe line constructed along the right of way hereinabove described in paragraph numbered two (2), together with all the appurtenances thereunto belonging or in anywise appertaining, including the head-gates, diverting dam and pipes, together with all and every thing used, useful and necessary in the operation of said ditch, flume and pipe line;

8. All the machinery, of every kind, nature and description situated in and about the power house of said Trinity Gold Mining and Reduction Company located upon the lot of land hereinabove described in paragraph six (6), including all tools, implements and appliances used, useful and necessary in the proper operation of said power house, and including dynamos, generators, water wheels, switch board, transformers and all accessories; together with all buildings or houses of any kind, in which any of said property may be located or contained;

9. All of the right, title and interest of said Trinity Gold Mining and Reduction Company, said party of the first part, in and to the power line and the right of way for the power line running from the power house situated on the parcel of land described in paragraph numbered six (6) hereof, to Trinity Center, together with all tap lines, transformers, meters, and other equipment used, useful and necessary in the distribution of electric energy, from said power line, excepting the tap line running from a point near Capt. Brown's cabin to the mine of the Trinity Gold Mining and Reduction Company, and also excepting the transformer equipment and branch lines running from the said mine and used in the operation thereof.

The intent and purpose of this instrument being to convey to said Wm. M. Shepard, the said party of the second part, all the water rights, rights of way for ditch, pipe line and flume, power site, equipment, buildings, tools, implements and appliances used in the operation thereof, transmission lines, poles, wires, cross-arms, and transformers, except the tap line mentioned in the last paragraph hereinabove numbered, running from a point near Capt. Brown's cabin to the mine of the Trinity Gold Mining and Reduction Company, together with transformer equipment used in the operation of said mine.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever.

DECISION No. 4132.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER APPROVING THAT CERTAIN AGREEMENT ENTERED INTO BY AND BETWEEN THE PACIFIC GAS AND ELECTRIC COMPANY AND THE GIANT POWDER COMPANY, CONSOLIDATED.

Application No. 2733.

Decided February 28, 1917.

An electric utility delivering a considerable amount of water under contract to another corporation, which water it desires to use itself for the generation of electric energy, is permitted to enter into a contract to supply the other company with energy considerably under its regular rates for such service in consideration of such corporation waiving its right to such water.

Proposed agreement whereby the Pacific company will furnish electric energy to the powder company at a flat rate of \$75.00 per month pending the expiration of the former contract between said companies approved.

Charles P. Cutten, for Pacific Gas and Electric Company.

BY THE COMMISSION.

OPINION.

This is the application of the Pacific Gas and Electric Company, a corporation, for the approval by the commission of a special electric power contract entered into on the thirtieth day of December, 1916, between the Pacific Gas and Electric Company, a corporation, and the Giant Powder Company, Consolidated, a corporation.

The hearing in this application was held at San Francisco before Examiner Encell on February 19, 1917, and testimony was received from representatives of both parties to the effect that the said agreement was satisfactory to each. A copy of the contract was filed with the application.

On March 23, 1907, the South Yuba Water Company, the predecessor in interest of the Pacific Gas and Electric Company, entered into a contract with the Giant Powder Company, Consolidated, under which contract the South Yuba Water Company agreed, for a term of ten years from and after the first day of June, 1909, to allow the Giant Powder Company, Consolidated, to take from the South Yuba Water Company's ditch in Placer County sufficient water for power purposes for the operation of its powder mills and the Giant Powder Company, Consolidated, agreed to pay for such water at the rate of seventy-five (75) dollars per month.

Since the execution of the contract, the Pacific Gas and Electric Company acquired all the properties of the South Yuba Water Company and, in accordance with the contract, has continued to deliver water for power purposes to the Giant Powder Company, Consolidated.

The Giant Powder Company, Consolidated, has utilized a natural drop in the existing canal system of the Pacific Gas and Electric Company's water system in that district for the operation of two 150-horsepower units—one consisting of an electric generating unit and the other a direct connected water wheel operating certain of its machinery in connection with the powder works.

At the present time the Pacific Gas and Electric Company has completed its Halsey and Wise power plants in the neighborhood of Clipper Gap and Auburn and in order to operate these plants at their maximum capacity and to utilize the water in their Bear River Canal to the highest efficiency, it desires to divert the water used for power purposes from the powder works and use the same in the two new power plants.

The original contract between the South Yuba Water Company and the Giant Powder Company, Consolidated, will not expire until June 1, 1919, and the Pacific Gas and Electric Company proposes, in lieu of supplying water to the powder company, to install the necessary motors, transformers and other equipment to replace the present hydraulic power plants of the powder company and to supply the powder company for the remaining period of the contract with the power necessary to supplant the power obtained previously from the water at the same flat rate of seventy-five (75) dollars per month, which was charged under the previous water contract.

It is apparent that this rate is considerably lower than the regular electric power schedules in effect on the Pacific Gas and Electric Company's system and in that respect will be a special deviation rate. This agreement, however, will be of considerable benefit to the Pacific Gas and Electric Company as it will be possible for them to generate several times the amount of power produced by the powder company in its plant with the same amount of water. And as Pacific Gas and Electric Company only desires to fulfill its contract to supply power to the Giant Powder Company, Consolidated, for the remainder of the contract period, it appears that the contract should be approved as presented.

ORDER.

Pacific Gas and Electric Company, a corporation, having applied to this commission for approval of a special contract entered into between it and the Giant Powder Company, Consolidated, a corporation, for the sale and purchase of power to the powder company's plant in Placer County, and a public hearing having been held thereon and it appearing to be for the best interests of both concerns that the contract be approved,

It is hereby ordered that the agreement entered into the thirtieth day of December, 1916, by and between Pacific Gas and Electric Company, a corporation, and Giant Powder Company, Consolidated, a corporation, wherein and whereby Pacific Gas and Electric Company, a corporation, agrees to sell and deliver to Giant Powder Company, Consolidated, a corporation, electric energy for the purpose of operating the powder mills of Giant Powder Company, Consolidated, a corporation, situated in the county of Placer, state of California, and known as the "Clipper Gap Mills" for the sum of seventy-five (75) dollars per month, be and the same is hereby approved.

Dated at San Francisco, California, this 28th day of February, 1917.

DECISION No. 4133.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 161 OF THE CITY OF SALINAS.

Application No. 2697.

Decided February 28, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on January 24, 1917 (Decision No. 4015), which stipulation provides that said company, its successors and assigns will never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 161 of the city of Salinas in excess of the sum of \$344.15, the amount stated by applicant to have been paid therefor at the time said ordinance was adopted; and it appearing to this commission that said stipulation is in form satisfactory to this commission so far as may be necessary for the purposes of this proceeding,

It is hereby ordered that said stipulation be and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 28th day of February, 1917.

DECISION No. 4134.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO INCREASE RATES ON GRAIN AND ARTICLES TAKING GRAIN RATES AS DESCRIBED IN ITEM No. 45-C, TARIFF No. 8243-A, C. R. C. No. 302, BETWEEN LOS ANGELES AND YSIDORA TO FALLBROOK, INCLUSIVE, AND BETWEEN FALLBROOK, ESCONDIDO AND LOS ANGELES, HOBART TO ORANGE, INCLUSIVE, AND MATEO TO STUART, INCLUSIVE.

Application No. 2652.

Decided February 28, 1917.

Petitioner applies for permission to increase rates on grain and articles taking grain rates Los Angeles to Escondido-Fallbrook and intermediate points from 10 to 11 and 12½ cents per 100 pounds.

Proposed increases are not justified by the mere contention that the proposed rates are reasonable; it must be shown that the rates used in the comparison are reasonable and properly adjusted. Petition denied without prejudice.

E. W. Camp and *G. H. Baker*, for Applicant.

F. P. Gregson, for Associated Jobbers of Los Angeles, and others.

O. T. Helpling, for San Diego Chamber of Commerce and others.

LOVELAND, Commissioner.

OPINION.

In this application The Atchison, Topeka and Santa Fe Railway Company seeks authority under section 63 of the Public Utilities Act to increase certain carload rates on grain and articles taking grain rates, as described in its Tariff No. 8243-A (C. R. C. No. 302).

The present rates and those proposed by carrier are shown in the following table:

Tariff page	Between—	And—	Rates in cents per 100 pounds	
			Present	Proposed
18	{ Fallbrook and Escondido	Los Angeles, Index No. 437.	10	12½
		Hobart, Index No. 451, to Los Nietos, Index No. 456, inclusive.		
19		Santa Fe, Index No. 457, to Orange, Index No. 462, inclusive.		
		Santa Ana, Index No. 509, to Serra, Index No. 516, inclusive.		
20	{	Mateo, Index No. 517, to Stuart, Index No. 522, inclusive.	11	12½
		Ysidora, Index No. 523, to Fallbrook, Index No. 528, inclusive.		
21	{ Los Angeles	Falda, Index No. 530, to Escondido, Index No. 534, inclusive.		

Stations Ysidora to Fallbrook are located on the Fallbrook branch, which leaves the Los Angeles-San Diego main line at Fallbrook Junction, 83 miles southeast of Los Angeles, and runs in a general northeasterly direction 18 miles to Fallbrook, the terminus.

Stations Falda to Escondido are on the Escondido branch, the terminus of which is Escondido, this branch leaving main line at Escondido Junction, three miles south of Fallbrook Junction, and running in a general southeasterly direction to Escondido, 21 miles from the main line.

It is deemed appropriate at this time to review the rate situation which occasioned application on the part of carrier.

Tariff No. 8243 (C. R. C. No. 28), effective May 20, 1907, contained a rate of \$2.50 per ton on grain and articles taking same rates between Los Angeles and points on the Fallbrook and Escondido branches.

Rates were not specifically published between Fallbrook, Escondido and points intermediate to Los Angeles, but were held down by the Los Angeles rate.

This tariff contained application clause to the effect that intermediate points to or from which rates were not specifically shown would take rates to or from next more distant point and which was amended from time to time but without substantially changing its import.

Tariff No. 8243 was amended, effective July 31, 1907, by incorporating therein Item No. 50-A, reading:

“Under application of this tariff stations Ysidora to Fallbrook, Cal. (Index Nos. 386 to 389, inclusive), and stations Falda to Escondido, Cal. (Index Nos. 392 to 397, inclusive), will be considered as intermediate points on line San Diego to Barstow, Cal., via either Riverside or Los Angeles, Cal.

Effective May 22, 1913, applicant published in its Tariff C. R. C. No. C. L. 98, carload rate of \$2.00 per ton on grain and articles taking same rates between Los Angeles and San Diego and which contained an application clause, reading:

“From and to (in direction indicated) points not named the rates named from and to (in direction indicated) the next more distant point will be the rate to apply.”

This tariff was subject to the rules and regulations contained in Santa Fe Tariff No. 8243 (C. R. C. No. 28) and superseded rate of \$2.50 per ton in latter tariff between the same points.

Effective July 15, 1913, Tariff C. R. C. No. C. L. 98, was canceled, the rates concurrently being incorporated in Items 240 and 241 of Amendment No. 43 to Tariff No. 8243 (Supplement No. 32 to C. R. C. No. 28).

After publication of the \$2.00 rate between Los Angeles and San Diego, carrier's agents applied this rate at points on the Fallbrook and Escondido branches, taking Item 50-A as authority therefor, and, on this being brought to the attention of the traffic officials, application was made to this commission, under section 63 of the Public Utilities Act, for permission to amend Items 240 and 241 so as to make them nonapplicable to traffic moving to or from points on the branches. This petition was set down for public hearing, but in the meantime applicant reissued its tariff and in the new publication, Tariff No. 8243-A (C. R. C. No. 302), effective October 26, 1914, the present rates as set forth in preceding table were specifically shown. This necessitated new petition, which was filed with the commission as Application No. 1749, and set for hearing at Los Angeles August 11, 1915.

Insufficient reasons having been advanced by applicant in support of its request to increase rates, same was denied without prejudice (Decision No. 2850 of October 29, 1915). Application now before the commission is substantially a renewal of that previously made, and it was stipulated between interested parties that the former petition and testimony in relation thereto be made a part of and considered in connection with the present application.

In the course of hearing it was developed that the back country in the vicinity of Escondido and Fallbrook has gone into poultry raising on an extensive scale, and it is contended by protestants that any increase in the freight rate from Los Angeles will naturally be manifested in the ultimate cost of marketing their output and eventually borne by consumer. Tonnage statement furnished by carrier for fiscal year ending June, 1916, discloses a movement between points embraced in application of approximately 1,743 tons of grain and articles taking same rates, most of which applicant's witness testified consists of poultry food.

Petitioner, in justification of proposed increases, alleges unjust discrimination between Los Angeles and San Diego on this branch line traffic and desires to remove the discrimination by increasing the Los Angeles rates, which it claims to be subnormal.

A knowledge of the relative situation will be gained by the following showing:

Between	Rates in cents per 100 pounds			
	And—			
	Los Angeles		San Diego	
	Miles	Rate	Miles	Rate
Fallbrook Junction	83	10	43	10
Escondido Junction	86	10	40	10
Fallbrook	101	10	61	10
Escondido	107	10	61	10

In support of its contention that proposed rates are fair and reasonable, applicant directs attention to rate of 10 cents per 100 pounds between Los Angeles and Fallbrook Junction and Escondido Junction and alleges that the branch line points should take a differential of at least $2\frac{1}{2}$ cents over the junction points; also that by comparison with 10-cent rate between San Diego and branches, the Los Angeles rate is unreasonably low.

It is pertinent to state here that an argument of this kind to be forceful must do more than make a mere contrast of rates. It must be accompanied by a showing that the rates used in comparison are reasonable and properly adjusted.

Applicant has failed to fortify its position with evidence tending to show the justness of the comparative rates above mentioned, apparently relying on a mere ipse dixit declaration that discrimination exists and, therefore, should be removed by increasing the Los Angeles rate.

It is true, some comparisons were made to show that proposed rates are not inconsistent with those prevailing in other districts, but such information, while enlightening, is not fully comparable.

A stronger test of reasonableness in this case is the placing in juxtaposition of rates between points comprehending an actual movement, which is well exemplified by measurement of the Los Angeles rate with that applying between San Diego and the branches.

The alleged discriminatory condition could be equally remedied by reducing the San Diego branch-line rate and applicant has made no attempt whatever to show that the latter rate is eminently fair and not above its proper level in the general adjustment. In a situation of this kind the most logical method of procedure would be to determine just and reasonable rates between the branch lines and points of conflicting interest, viz, Los Angeles and San Diego.

It is usually the practice to maintain a somewhat higher rate basis for joint main and branch-line service than for a purely main-line haul of similar distance and this feature would be given due weight if the commission were asked to fix a proper and reasonable rate for the movement in question, but in this case applicant merely asks for specific rates of 11 and $12\frac{1}{2}$ cents per 100 pounds and not for the establishment of just and reasonable rates.

I find that the testimony does not justify granting applicant's prayer for rates of 11 and $12\frac{1}{2}$ cents per 100 pounds, as set forth in the pleading and recommend that application be denied without prejudice.

I submit the following form of order:

ORDER.

The Atchison, Topeka and Santa Fe Railway Company, having applied under section 63 of the Public Utilities Act for authority to

increase carload rates on grain and articles taking same rates between Los Angeles and Fallbrook-Escondido and intermediate points from 10 cents per 100 pounds to 11 and 12½ cents per 100 pounds, respectively, as shown in the opinion which precedes this order, and a public hearing having been held, and the commission being fully apprised in the premises,

It is hereby ordered that the application be denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 28th day of February, 1917.

DECISION No. 4135.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE NO. 92 OF THE CITY OF KINGSBURG.

Application No. 2710.

Decided February 28, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on February 5, 1917 (Decision No. 4080), which stipulation provides that said company, its successors and assigns, will never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 92 of the city of Kingsburg in excess of the sum of \$200.00, the amount stated by applicant to have been paid therefor at the time said ordinance was adopted; and it appearing to this commission that said stipulation is in form satisfactory to this commission so far as may be necessary for the purposes of this proceeding,

It is hereby ordered that said stipulation be and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 28th day of February, 1917.

DECISION No. 4136.
CITY OF LOS BANOS

vs.

WEST SAN JOAQUIN VALLEY WATER COMPANY.

Case No. 822.

IN THE MATTER OF THE APPLICATION OF WEST SAN JOAQUIN
VALLEY WATER COMPANY FOR AN ORDER AUTHORIZING AN
INCREASE IN WATER RATES.

Application No. 1854.

Decided February 28, 1917.

Stephen P. Galvin, for City of Los Banos.

Edward F. Treadwell, for West San Joaquin Valley Water Company.

LOVELAND, *Commissioner*.

SUPPLEMENTAL OPINION.

In the order of this commission in the above-entitled proceedings, issued on December 6, 1916, certain improvements to the water system of West San Joaquin Valley Water Company were specified to be made by said utility before the new schedule of rates should become effective.

This commission has now been advised by said utility that the improvements specified, viz. the installation of a chlorination plant and the extension of water mains into the Wilson resubdivision, have been completed, and the same is certified to by counsel for the city of Los Banos.

The schedule of rates outlined in decision No. 3918, dated December 6, 1916, in these proceedings, may, therefore, become effective.

ORDER.

West San Joaquin Valley Water Company having been ordered to install certain new equipment to its water system and extend its mains into new territory by an order of this commission dated December 6, 1916, and said order having been complied with in a satisfactory manner,

It is hereby ordered that West San Joaquin Valley Water Company be authorized to collect the following schedule of rates, to be effective on and after March 1, 1917:

Flat Rates.

\$1.80 per month for tenements occupied by a single family or private boarding house, and to include toilet and bath fixtures.

\$100 per month to be paid by the town of Los Banos for fire service.

All other flat rates as per Ordinance No. 71, of the city of Los Banos, at present in effect.

Meter Rates.

\$1.50 per month for 500 cubic feet or less.

20 cents per 100 cubic feet for the next 1,000 cubic feet.

15 cents per 100 cubic feet for all excess over 1,500 cubic feet per month.

Meters to be installed at option of consumer or utility.

Municipal Use.

15 cents per 100 cubic feet.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 28th day of February, 1917.

DECISION No. 4137.

IN THE MATTER OF THE APPLICATION OF HUNTINGTON BEACH COMPANY TO SELL ITS WATER PLANT AND SYSTEM TO HUNTINGTON BEACH WATER COMPANY AND OF HUNTINGTON BEACH WATER COMPANY TO ISSUE STOCK.

Application No. 2375.

Decided February 28, 1917.

Huntington Beach Company authorized to sell its water distributing plant in the city of Huntington Beach to the Huntington Beach Water Company, and the latter company to issue \$99,910.00 par value of its capital stock in exchange therefor; provided, that such valuation shall not be binding for rate fixing or other purposes and that a stipulation be filed to the effect that no value, in excess of the actual original cost, shall ever be claimed for any franchise transferred.

The entire cost of a well sunk at a cost of \$2,673.00 and subsequently abandoned is included under the head of development cost and is allowed in connection with the valuation at which the properties shall be transferred.

Lets used as a reservoir site which, if used for residential purposes, would command a considerably higher price owing to their desirableness as regards elevation, view, etc., are allowed at the higher figure.

S. F. Macfarlane, for applicant.

A. P. Nelson, for city of Huntington Beach.

BY THE COMMISSION.

OPINION.

This is an application of Huntington Beach Company for authority to sell its water utility business in Huntington Beach, Orange County, to a new corporation to be known as Huntington Beach Water Company. The latter company asks for authority to issue stock in exchange for said properties.

A hearing in this matter was held at Huntington Beach on September 1, 1916, before Examiner Encell, at which time H. L. Heffner, vice president and manager of Huntington Beach Company, testified as to the reasons for the application and gave a general description of the property.

Huntington Beach Company was incorporated under the laws of the state of California on May 4, 1903, primarily for the purpose of acquiring and marketing a large tract of land in Huntington Beach, Orange County. In connection with its other business it operates a water plant and system supplying water to approximately 780 consumers. The pipe system consists of approximately 30 miles of mains which cover generally the various tracts of land developed for residential purposes by Huntington Beach Company. Water is secured from wells near town and storage of slightly over 1,000,000 gallons is available in a reservoir located on a hill about one and one-half miles from the center of town.

The water system within the city limits of Huntington Beach is operated under a constitutional franchise. Operations outside the municipality are conducted under a franchise from the county of Orange. The cost of the latter franchise is represented to have been the sum of \$80.00.

In Decision No. 1730, dated August 14, 1914 (Volume 5, Opinions and Orders of the Railroad Commission of California, page 237), the commission passed upon the water rates of the Huntington Beach Company. This matter was brought before the commission on the complaint of the city of Huntington Beach (Case No. 480) and upon the application of Huntington Beach Company for authority to raise its water rates (Application No. 791).

At that hearing the company presented a valuation made by P. E. Harroun, purporting to show a present value of \$80,815.00 for its water properties. At the same time the city presented a valuation made by H. C. Kellogg showing a present value for the same properties of \$54,056.00. The difference between the two valuations lay largely in the estimate of pipe laying and in the inclusion by one and the exclusion by the other of service connections and in the inadvertent omission of some items by the engineer employed by the city of Huntington Beach.

In its decision the commission called attention to the fact that this system was constructed over a widely and sparsely settled territory and held that the entire cost of such construction should not be charged against the present consumers. The commission, therefore, allowed a return upon approximately one-third of the plant cost as determined by applicant's engineer, or upon the sum of \$26,938.00.

The earnings of Huntington Beach Company's water system as reported to the commission for the years ending December 31, 1913, 1914 and 1915 are as follows:

	1913	1914	1915
Operating revenues -----	\$6,835 26	\$8,510 58	\$10,354 31
Operating expenses -----	18,617 19	15,706 91	11,175 63
Net operating loss -----	\$11,781 93	\$7,196 33	\$821 29

Huntington Beach Company now desires to separate its public utility business from its other business. To this end it caused to be incorporated on August 29, 1914, a corporation known as Huntington Beach Water Company. The latter company has an authorized capital stock issue of \$150,000.00, divided into 150,000 shares of common stock of the par value of one (1) dollar per share. None of said stock has been issued with the exception of five shares for the qualification of directors. The company has issued no notes, bonds or other evidences of indebtedness.

In connection with the application herein, Huntington Beach Company filed a valuation purporting to show that the reproduction cost new less depreciation of its water utility properties as of March 1, 1916, was the sum of \$109,680.00.

At the hearing H. F. Clark, assistant engineer of the commission, presented a report showing a reproduction cost new less depreciation as of August 1, 1916, of \$84,299.00. The appraisement presented by Mr. Clark showed the unit cost of pipe but did not show the manner in which the cost had been determined, or what allowance had been made to cover installation, freight and hauling, et cetera. In consequence, applicants stated that they were unable to draw a fair comparison as between the commission's valuation and that of the company until such figures could be obtained. Considerable differences of opinion existed also as to certain land values. The company, therefore, asked that Mr. Clark make a further investigation on behalf of the commission. The hearing was therefore adjourned until such time as the commission's engineer and the company's representatives should have had further time to investigate the value of the water utility properties. Such investigations have now been completed and Huntington Beach Company has informed the commission that it is willing to have its application submitted and a decision rendered without further hearing, providing that the following items are covered therein. These items are as follows:

1. Net additions to system from March 1 to August 1, 1916.....\$2,089 42

There appears to be no objection to the inclusion of these additions for the purpose of arriving at a proper valuation as of August 1, 1916.

2. Inclusion of lots numbers 25, 27, 28, 29, 33 and 39 in the
Garfield Street Addition at the value of-----\$3,380 00

This property consists of ten-foot strips running in the rear of lots. The commission's engineer considered these as easements in arriving at a valuation of the properties. Applicants now state that the land is owned in fee.

3. An increase in the estimate of value of five lots at well-sites
numbers 2 and 3-----\$7,200 00

At the hearing Charles R. Nutt, city clerk and ex officio city assessor of Huntington Beach, testified that in his opinion this valuation was reasonable.

4. An increase in the valuation of 5.17 acres, comprising a reser-
voir site, to \$1,000.00 per acre-----\$5,170 00

The commission's engineer previously estimated the value of this land at \$500.00 per acre. Applicants state that by reason of its commanding view the property would bring \$1,000.00 per acre if sold for residential purposes.

5. The inclusion of applicant's well number 1½ at its cost of-----\$2,673 00

This well was drilled to a depth of 900 feet but subsequently failed and was cut off at the 200-foot level. The commission's engineer valued this well at \$616.00. Applicant claims that it should be allowed the entire amount as a development or exploration cost. For the purposes of this proceeding it appears that the actual cost of this well to the Huntington Beach Company may reasonably be included.

A summary of the additions claimed by applicant is as follows:

Net additions and betterments, March 1 to August 1, 1916, not heretofore included-----	\$2,089 00
Land owned in fee (10-foot strips)-----	3,880 00
Increase in value of town lots-----	5,000 00
Increase in value of reservoir site-----	2,585 00
Development expense, well number 1½-----	2,057 00
	<hr/>
	\$15,611 00
Reproduction cost new less depreciation of properties as of August 1, 1916, as shown by commission's Exhibit No. 1-----	\$4,299 00
	<hr/>
Reproduction cost new less depreciation as of August 1, 1916---	\$99,910 00

From a consideration of the evidence presented it appears that the revised figure of \$99,910.00 may be used as a basis for the transfer of the water utility properties of Huntington Beach Company to Huntington Beach Water Company.

ORDER.

Huntington Beach Company having applied to this commission for authority to sell its properties to Huntington Beach Water Company, and the latter company having applied for authority to purchase said properties and to issue capital stock in payment therefor, and a hearing having been held and it appearing to this commission that the purposes for which it is proposed to issue said stock are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Huntington Beach Company be and it is hereby authorized to sell its water utility plant, system and franchises to Huntington Beach Water Company, a description of the real property so to be transferred being attached hereto as Exhibit No. 1.

It is hereby further ordered that Huntington Beach Water Company be and it is hereby authorized to issue \$99,910.00 par value of capital stock in full payment for said properties.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The properties herein authorized to be transferred shall be transferred free from encumbrance.

2. The value of the stock herein authorized to be issued shall not be binding upon this commission or any other public body as representing the value of the properties herein authorized to be transferred for rate making or other purposes.

3. Before acquiring the water utility plant, system and franchises of Huntington Beach Company, Huntington Beach Water Company shall file with this commission a stipulation duly authorized by its board of directors declaring that Huntington Beach Water Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for the franchises to be acquired from Huntington Beach Company in excess of the actual cost to Huntington Beach Water Company of acquiring said franchises, and shall receive a supplemental order from this commission declaring that such stipulation in satisfactory form has been filed with the Railroad Commission.

4. The authority herein granted to issue stock and transfer property shall apply only to such stock as shall have been issued and such property as shall have been transferred on or before October 31, 1917.

Dated at San Francisco, California, this 28th day of February, 1917.

EXHIBIT NO. 1.

First. Reservoir site. All that piece and parcel of land lying in the NW. $\frac{1}{4}$ of Section 2 and the NE. $\frac{1}{4}$ of Section 3, T. 6 S., R. 11 W., S. B. B. and M., more particularly described as enclosed by the following described boundary lines, to wit:

Beginning at a point of compound curve, which point is N. $81^{\circ} 56' 8''$ W., a distance of (300) Three Hundred Feet from the Northwesterly corner of Smeltzer

Avenue and Clay Street (now known as Summitt Avenue) as shown on that certain map of the Garfield Tract, recorded on page 27-8 of Book 7 of Miscellaneous Maps, Records of Orange County, California, and running thence in a Westerly direction a distance of 445.058 feet from said point of beginning along the arc of a circle of a radius of 510 feet, the center of which circle bears South $31^{\circ} 28' W.$, from the point of beginning, to a point of compound curve, thence Southerly along the arc of a circle of 135.362 feet radius, a distance of 240.03 feet to a point of compound curve, thence Southeasterly along the arc of a circle of 613.156 feet radius, through a distance of 222.950 feet to a point of compound curve, thence Easterly along the arc of a circle of 305.543 feet radius, through a distance of 470.41 feet to a point of compound curve, thence Northeasterly along the arc of a circle of 149.52 feet radius, through a distance of 86.74 feet to a point of compound curve, thence Northwesterly along the arc of a circle of 205 feet radius, through a distance of 226.79 feet to the point of beginning.

Second, No. 1 and $1\frac{1}{2}$ Well Site. That parcel of land more particularly described as follows: Beginning at the point of intersection of the produced westerly line of Alabama Avenue with the southerly line of Atlanta Street, running thence south 140 feet to a point, thence west 21 feet to a point, thence north 140 feet to the southerly line of Atlanta Street, thence east along the southerly line of Atlanta Street 21 feet to the point of beginning, which parcel of land is situated in the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of Section 14, T. 6 S., R. 11 W., S. B. B. and M.

Third, No. 2 and 3 Well Site. Lots No. 2-4-6-8 and 10, Block 303, Main Street Section, city of Huntington Beach as delineated in the map thereof recorded on Page 43, Book 3 Miscellaneous Maps, Records of Orange County.

Fourth, Private right of way lands. Lot 33 of Block A, Lot 39 of Block B, Lots 29 of Block C, Lot 28 of Block D, Lot 25 of Block E, Lot 27 of Block F, Garfield Street Addition, Huntington Beach, being subdivision N. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Section 2, T. 6 S., R. 11 W., and a portion of the SW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Section 35 of T. 5 S., R. 11 W., S. B. B. and M., as recorded on Pages 27 and 28 of Book 7, Miscellaneous Maps, Records of Orange County, California.

Decision No. 4138.

IN THE MATTER OF THE APPLICATION OF GEORGE L. FISH FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN THE
TOWN OF SAUSALITO, MARIN COUNTY, CALIFORNIA.

Application No. 2687.

Decided February 28, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above-entitled matter having duly requested that this proceeding be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 28th day of February, 1917.

DECISION No. 4139.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY AND ED FLETCHER FOR AN ORDER FIXING RATES TO BE CHARGED AND COLLECTED FOR WATER FURNISHED AND TO BE FURNISHED BY THEM AND SERVICES RENDERED BY THEM IN FURNISHING WATER, AND IN FURNISHING, CARRYING AND CONVEYING WATER IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

Application No. 1231.

Decided March 1, 1917.

BY THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

James A. Murray and Ed Fletcher, copartners doing business under the firm name and style of Cuyamaca Water Company, having filed their petition for rehearing in the above-entitled proceeding, and careful consideration having been given thereto and no good cause appearing why a rehearing should be held,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 1st day of March, 1917.

DECISION No. 4140.

IN THE MATTER OF THE APPLICATION OF MARY K. WOHLFORD AND LOS ANGELES TRUST AND SAVINGS BANK FOR AN ORDER AUTHORIZING THE SALE OF THEIR GAS AND ELECTRIC PROPERTIES IN THE CITY OF ESCONDIDO, SAN DIEGO COUNTY, TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY AND OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO PURCHASE THE SAME.

Application No. 2668.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THIRTY THOUSAND DOLLARS AND PREFERRED STOCK OF THE PAR VALUE OF TEN THOUSAND DOLLARS.

Application No. 2669.

Decided March 1, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission hereby declares that San Diego Consolidated Gas and Electric Company has filed herein, as provided in the order of

February 10, 1917, herein, a stipulation, duly authorized by its board of directors, agreeing for itself, its successors and assigns, that it and they will never claim for the franchises to be acquired by said company in connection with the gas and electric properties in Escondido, California, any value in excess of the amount paid for said franchises by the original grantee thereof to the public authority or authorities granting the same, which amount is specified in said stipulation to have been the sum of \$25.00, and that such stipulation is in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 1st day of March, 1917.

Decision No. 4141.

IN THE MATTER OF THE APPLICATION OF MARY K. WOHLFORD AND LOS ANGELES TRUST AND SAVINGS BANK FOR AN ORDER AUTHORIZING THE SALE OF THEIR GAS AND ELECTRIC PROPERTIES IN THE CITY OF ESCONDIDO, SAN DIEGO COUNTY, TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY AND OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO PURCHASE THE SAME.

Application No. 2668.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THIRTY THOUSAND DOLLARS AND PREFERRED STOCK OF THE PAR VALUE OF TEN THOUSAND DOLLARS.

Application No. 2669.

Decided March 1, 1917.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that condition No. 5 in the order of February 10, 1917, in the above-entitled proceedings, be and the same is hereby amended to read as follows:

“5. San Diego Consolidated Gas and Electric Company shall sell the bonds herein authorized to be issued at not less than 93 per cent of their face value, plus accrued interest, and the preferred stock at not less than par, and shall apply the proceeds from the sale of said bonds and preferred stock on the purchase price of said gas and electric properties in the city of Escondido, the total amount to be paid for said properties not to exceed the sum of \$40,000.00.”

In all other respects the order of February 10, 1917, in the above-entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this 1st day of March, 1917.

DECISION No. 4142.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE BONDS OF THE FACE VALUE OF THREE HUNDRED THIRTY-EIGHT THOUSAND DOLLARS AND PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

Application No. 2661.

Decided March 1, 1917.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

It is hereby ordered that Condition No. 1 in the order of February 8, 1917, in the above-entitled proceeding be and the same is hereby amended to read as follows:

“1. San Diego Consolidated Gas and Electric Company shall issue its said bonds at not less than 93 per cent of their face value, plus accrued interest, and its said preferred stock at not less than par.”

In all other respects, the order of February 8, 1917, and the first supplemental order of February 10, 1917, in the above-entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this 1st day of March, 1917.

DECISION No. 4143.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE OF 1,201,000 SHARES OF THE CAPITAL STOCK OF TIDE-WATER SOUTHERN RAILWAY COMPANY.

Application No. 2741.

Decided March 1, 1917.

1. When a petition is filed with the commission by one railroad company for permission to purchase a large amount of stock of another railroad company, the commission is not concerned with passing upon transactions between individual stockholders, but is concerned solely with the fact as to whether or not the public generally will benefit by the transaction.
2. When by the rendition of financial assistance and the execution of joint traffic agreements two railroads which are in no sense competitive are able to serve each other more advantageously and to render more efficient service to the public, permission to purchase a large amount of stock of one railroad by the other should be granted.

Western Pacific Railroad Company authorized to purchase 1,201,000 shares of stock of the Tidewater Southern Railway Company of the par value of \$1.00 per share, provided that the proposed traffic agreement to be entered into between the two above-named railroads shall first be filed and approved by the Railroad Commission.

A. R. Baldwin and Allan P. Matthew, for the Western Pacific Railroad Company.

GORDON, Commissioner.

OPINION.

In this application The Western Pacific Railroad Company asks permission to purchase 1,201,000 shares (par value \$1.00 per share) of the capital stock of Tidewater Southern Railway Company.

Petitioner desires to acquire the stock for the purpose of assisting in the extension of the lines of railway of Tidewater Southern Railway Company and for the development of its freight and passenger traffic to the end that the interchange of freight and passenger traffic between the petitioner and the Tidewater Southern Railway Company may be increased.

Reference is here made to Decision No. 3931, dated December 13, 1916, in which the commission considered the financial condition of Tidewater Southern Railway Company as well as the extensions which it proposes to construct. The construction of these extensions will be made possible by the sale of \$600,000.00 par value of stock of the Tidewater Southern Railway Company to The Western Pacific Railroad Company for \$480,000.00 in cash.

These two lines join at Stockton. The Tidewater Southern Railway Company runs southward into the San Joaquin Valley through Modesto and Turlock and will serve to bring traffic to The Western Pacific Railroad Company from a territory the latter does not now reach.

J. D. Young, who owns stocks and bonds of both the Tidewater Southern Railway Company and The Western Pacific Railroad Company, appeared before the commission in this proceeding, not with an intention to protest against the granting of the application, but rather with a request that The Western Pacific Railroad Company fix a price at which it will acquire the outstanding stock of Tidewater Southern Railway Company. He maintains that such a procedure would give all of the stockholders an opportunity to dispose of their holdings. While I appreciate the position of J. D. Young, the commission in this proceeding is not to pass upon transactions between the various individual stockholders of Tidewater Southern Railway Company and The Western Pacific Railroad Company, but rather upon the single issue—Will the purchase of this large amount of stock of Tidewater Southern Railway Company by The Western Pacific Railroad Company be in the public's interest?

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Mr. A. R. Baldwin, vice president and general attorney for The Western Pacific Railroad Company, testified that in his opinion the purchase of the stock would be mutually beneficial to both companies; that it would give an outlet to the freight originating on the lines of Tidewater Southern Railway Company; that it would improve its financial condition, and that The Western Pacific Railroad Company was in a position to offer better service and furnish better equipment.

Tidewater Southern Railway Company is in need of financial assistance to extend and develop its properties and The Western Pacific Railroad Company is now in a position to afford that assistance. The two lines can serve each other advantageously and can jointly render more efficient service to the public than is now given by the two separately.

The two enterprises are in no sense competitive and I believe each will contribute to the earning power of the other. Shippers along the routes of both lines will be afforded additional facilities and provided with easy access to new markets.

The purchase of this stock by The Western Pacific Railroad Company will enable it to render service into the San Joaquin Valley where it is now at a disadvantage as compared with the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company.

It is my opinion that the public interest will be served by granting this application.

I recommend the following form of order:

ORDER.

The Western Pacific Railroad Company having applied to the commission for authority to purchase 1,201,000 shares of the capital stock of Tidewater Southern Railway Company, and a public hearing having been held, and the commission finding that public convenience and necessity will be served by the granting of this application,

It is hereby ordered that The Western Pacific Railroad Company be and it is hereby given authority to acquire 1,201,000 shares (par value \$1.00 per share) of the capital stock of Tidewater Southern Railway Company.

The authority herein granted is granted upon the following conditions and not otherwise:

1. This order shall become effective only after The Western Pacific Railroad Company shall have filed a copy of a traffic agreement to be binding between it and said Tidewater Southern Railway Company, in the event that The Western Pacific Railroad Company acquires all or any part of 1,201,000 shares of the capital stock of Tidewater Southern Railway Company and shall have received an order from this commission approving such traffic agreement.

2. The Western Pacific Railroad Company shall file with the commission on or before the twenty-fifth day of each month, a statement showing the amount of stock acquired during the month preceding the filing of the report, such statement to show the number of each stock certificate together with the price paid for each share of stock acquired

3. The authority herein granted shall apply only to such stock as may be acquired on or before October 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 1st day of March, 1917.

DECISION No. 4144.

IN THE MATTER OF THE APPLICATION OF THE YOSEMITE POWER COMPANY FOR AN ORDER EXTENDING TIME FOR COMPLIANCE WITH CHAPTER No. 499 OF THE LAWS OF 1911, AS AMENDED BY CHAPTER No. 600 OF THE LAWS OF 1915.

Application No. 2383.

Decided March 1, 1917.

Applicant granted an extension of time to and including December 31, 1918, in which to complete reconstruction necessary under the above-named chapters; provided that one-half of such work shall be completed on or before December 31, 1917.

W. I. Titus, for Yosemite Power Company.

BY THE COMMISSION.

OPINION.

This is a petition for an extension of time within which to comply with the provisions of chapter No. 499, laws of 1911, as amended by chapter No. 600, laws of 1915, referring to the construction, reconstruction, maintenance and use of electric poles, wires, cables and appliances.

Public hearings in this proceeding were held before Examiner Encell in Turlock, July 19, 1916, and October 4, 1916.

For a statement of the law governing proceedings of this character and of the principles guiding the Railroad Commission in its decision therein, reference is hereby made to the decision rendered September 26, 1916, in Application No. 2222, Los Angeles Gas and Electric Corporation et al.

Yosemite Power Company transmits and distributes electric energy in the southeastern portion of Stanislaus County.

The testimony shows that the principal violations of the statute on this company's system occur with reference to horizontal and vertical clearances. Since March 1, 1911, no work has been done solely for the purpose of eliminating such violations as then existed. All reconstruction and all new construction since that date has, however, been made in compliance with the statute. During this time new street lighting systems have been installed in the towns of Ceres, Hughson and Denair, at an approximate cost of between \$6,000.00 and \$7,000.00. Incident to this new work, the distribution systems in said towns were nearly all rebuilt and made to conform with the safety provisions of the statute, thereby eliminating about fifty per cent of all the violations on this company's system.

A joint estimate made by the commission's engineering department and Yosemite Power Company's superintendent, Mr. Carl Tell, shows that an expenditure of approximately \$3,416.00 will be necessary to bring the system into complete compliance with the statute.

Petitioner estimates that the expense could be very materially reduced if an extension of time of five years be granted so that the work could be done during the course of ordinary reconstruction and by the regular operating force.

After careful consideration of all the factors entering into the problem, we have reached the conclusion that an extension of time until December 31, 1918, should be granted to petitioner, on the conditions specified in the order herein.

ORDER.

Yosemite Power Company having applied for an order extending the time within which to comply with the provisions of chapter No. 499, laws of 1911, as amended by chapter No. 600, laws of 1915, and public hearings having been held thereon,

It is hereby ordered that the time within which petitioner shall construct its existing system so as to comply completely with the provisions of chapter No. 499, laws of 1911, as amended by chapter No. 600, laws of 1915, is hereby extended to and including December 31, 1918, on condition that at least one-half of the reconstruction work necessary to be done shall be completed on or before December 31, 1917, and the entire work on or before December 31, 1918.

It is further hereby ordered that at the times herein directed petitioner shall file with the Railroad Commission on forms to be supplied by the Railroad Commission, progress reports showing, in such detail as will be prescribed by the Railroad Commission, the extent to which the necessary reconstruction work has been performed during the period covered by the report, and also the extent to which reconstruction work remains to be done in order that the property

will comply with the provisions of chapter No. 499, laws of 1911, as amended by chapter No. 600, laws of 1915. The first report shall cover the period ending June 30, 1917, and shall be filed with the Railroad Commission within fifteen days subsequent thereto. The succeeding reports shall cover the succeeding six-month periods respectively and shall be filed on or before the expiration of fifteen days after the termination of each such succeeding period of six months.

Dated at San Francisco, California, this 1st day of March, 1917.

DECISION No. 4145.

IN THE MATTER OF THE APPLICATION OF NEVADA-CALIFORNIA-OREGON RAILWAY FOR AN ORDER RATIFYING AND APPROVING THE ISSUE OF CERTAIN BONDS OF SAID CORPORATION HERETOFORE INADVERTENTLY ISSUED WITHOUT THE AUTHORITY OF THIS COMMISSION.

Application No. 2055.

Decided March 1, 1917.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas the Railroad Commission by Decision No. 3228, dated April 4, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 500), and by Decision No. 3244, dated April 7, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 692), authorized applicant herein to issue \$519,000.00 face value of first mortgage 5 per cent twenty-year bonds, due May 1, 1919; and

Whereas said decisions of this commission provide that bonds in the amount of \$417,000.00 may be issued in lieu of a like amount of bonds heretofore issued without the authority of this commission, provided said bonds are issued at the same price as the bonds originally issued without an order from this commission; and

Whereas said decisions of the commission further provide that bonds in the amount of \$102,000.00 may be sold for not less than 90 per cent of their face value plus accrued interest; and

Whereas applicant herein reports that it has issued of the aforesaid \$102,000.00 face value of bonds, bonds in the amount of \$58,000.00, leaving bonds in the amount of \$44,000.00 unissued; and

Whereas applicant herein requests that the authority heretofore granted to issue bonds be extended so as to apply to all bonds issued on or before December 31, 1917; and good cause appearing,

It is hereby ordered that the time within which applicant herein may issue its bonds authorized by Decision No. 3228, dated April 4, 1916, and Decision No. 3244, dated April 7, 1916, be and the same is hereby extended to December 31, 1917, provided that the aforesaid \$44,000.00 face value of bonds, mentioned in paragraph "4" of this second supplemental order, be issued by applicant at not less than 93 per cent of their face value plus accrued interest.

It is hereby further ordered that Decision No. 3228, dated April 4, 1916, and Decision No. 3244, dated April 7, 1916, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this 1st day of March, 1917.

DECISION NO. 4146.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR AN ORDER THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER A FRANCHISE GRANTED BY THE BOARD OF SUPERVISORS OF TRINITY COUNTY.

Application No. 2611.

Decided March 3, 1917.

Applicant granted a certificate of public convenience and necessity permitting the construction and operation of an electrical distributing system in certain specified territory in the county of Trinity; provided, that it shall not distribute electric energy within the city of Weaverville except to the Weaver-ville Electric Company, shall not distribute electric energy in territory at present served by the California-Oregon Power Company and shall file a stipulation to the effect that no value in excess of the actual original cost shall ever be claimed for such franchise.

Allan P. Matthew, for Northern California Power Company, Consolidated.

Morrison, Dunne & Brobeck, by *W. I. Brobeck* and *Herman H. Phleger*, for California-Oregon Power Company, Protestant.

W. A. Goetze, for Weaverville Electric Company.

BY THE COMMISSION.

OPINION.

By its amended application, filed by leave of the commission, Northern California Power Company, Consolidated, requests the Railroad Commission of the state of California to make an order pursuant to section 50 (b) of the Public Utilities Act, that public convenience and necessity require the exercise by applicant of rights and privileges acquired by it by virtue of a franchise granted by the board of supervisors of Trinity County to H. R. Gibbon and by him assigned to applicant.

Public hearings in this proceeding were held in Weaverville on December 6, 1916, and in San Francisco on January 11 and January 16, 1917, before Examiners Encell and Bancroft.

From the evidence it appears that on the 7th day of September, 1916, an ordinance was unanimously adopted by the board of supervisors of Trinity County granting to H. R. Gibbon, his successors and assigns, for the term of fifty years, certain rights and privileges, including those of erecting poles, stretching wires and other appliances and appurtenances thereon, and maintaining the same for the purpose of conducting and transmitting electricity and electric current for power, light, heat and other necessary and useful purposes along, over and upon the roads, trails and highways of Trinity County.

The ordinance provides that whenever said wires shall cross any of such roads or highways they shall have a clearance of not less than twenty feet, and that the rights and privileges granted in said ordinance shall not be exclusive. The ordinance also contains a provision that work shall be commenced by the grantee under said franchise within four months from the granting thereof and shall be completed within three years thereafter, and if not so commenced and so completed said franchise shall be forfeited. On September 8, 1916, said franchise was sold and assigned by said H. R. Gibbon to Northern California Power Company.

It further appears that Northern California Power Company has been furnishing electric energy in Trinity County for approximately ten years to the Lappin Mine, which is situated about one and one-half miles from the eastern boundary of the county. This mine was served by a 2,000-volt transmission line running westerly from applicant's Washington substation in Shasta County. No other customers were served by applicant and no extensions in Trinity County were made until September, 1916.

During all this period applicant never obtained a franchise from Trinity County, owing to the fact that its line did not follow or cross any public roads or highways in said county. Since obtaining the franchise above referred to, applicant has replaced its old line to Lappin Mine by a new 60,000-volt line running all the way from Keswick, Shasta County, a distance of some thirty or forty miles, and has extended its lines in Trinity County from Lappin Mine through Lewiston to Weaverville; it has also run a line from Lewiston to the post office near Minersville. All of this extension in Trinity County was made without securing from this commission a certificate of public convenience and necessity.

It further appears that California-Oregon Power Company secured a franchise from Trinity County in January, 1915, and ran a 60,000-volt transmission line early in the summer of 1916 across the mountains into

the northern portion of Trinity County and down the Trinity River through Carville to Trinity Center, at a gross outlay of approximately \$90,000.00. Of this amount the Yukon Gold Dredging Company advanced the sum of \$25,000.00 which the power company is repaying to it by an allowance on its bills equal to 25 per cent of the price of the power furnished.

Although there are approximately 3,000,000 acres of land in Trinity County, it was stated at the hearing that the county contains less than 3,000 acres of level land; and while there is apparently a field for power development, such development will, for the near future at least, depend almost entirely upon mining operations. According to the testimony of protestant, practically the only area in northern Trinity County available for exploitation by dredgers lies along the Trinity River, which is here bounded on either side by precipitous mountains.

Trinity Center is some 14 miles north of Minersville post office, the northernmost point to which applicant has extended its transmission line, and while protestant does not object to the extensions which applicant has actually made thus far, it does object to applicant extending its line to any point north of 40° 50' north latitude, which is about a mile north of the Minersville post office.

Applicant's line from Lewiston to Minersville post office has been constructed at a cost of some \$20,000.00, although the immediate business along this route will yield a very small revenue, and evidently applicant has built its line this distance largely with a view to extending it into the gold dredging district. The point then arises as to whether applicant can extend its lines further north without entering territory already served by protestant. The latter is at present supplying the Yukon Gold Dredging Company with from 700 to 800 horsepower, and is supplying light to the consumers of Trinity Center and Carville. A survey has been completed by protestant from Trinity Center as far south as Minersville, and portions of the right of way have been purchased; but protestant does not intend to extend its lines any further south unless there should arise a future demand for electricity in that direction. It has installed at Trinity Center a substation of 600 kilowatt capacity, and, according to its testimony, it can serve territory within a radius of from five to eight miles of Trinity Center by service leads.

Under these circumstances, it is somewhat difficult to define just what territory in northern Trinity County is at present occupied and served by California-Oregon Power Company. It is obvious that, in order to serve and occupy country of this description, it would not be necessary to run distribution lines as closely as in a well built-up community. It would certainly not be economical for California-Oregon Power Com-

pany to build branch lines or leads to mining claims where at present there is no demand whatever for electricity, but where it hopes that at some future time a dredger may be installed; and the mere fact that it has not extended its leads to such points would not necessarily prevent such territory from being adequately served by protestant, provided that the latter stood ready and willing to install its lead and serve the property under reasonable and proper terms.

The evidence shows, however, that California-Oregon Power Company has never made an extension in Trinity County, except when the cost thereof was defrayed by the consumer.

On May 8, 1916, by Decision No. 3313, this commission granted to California-Oregon Power Company a certificate of public convenience and necessity covering a portion of Trinity County, which included the territory lying south of Trinity Center and north of 40° 50' north latitude. The present decision will give to Northern California Power Company a certificate of public convenience and necessity including this same territory; the intention of this commission being that this is unoccupied territory and that, as both companies have county franchises covering this district, either may build its lines into the same, after which the other company shall not have the right to enter territory so served without first obtaining from this commission a further order authorizing it to do so.

Applicant does not desire to serve any territory west of a north and south line drawn through the center of the unincorporated town of Weaverville, nor does it desire to serve the town of Weaverville itself, although it will sell electricity to the Weaverville Electric Company, which, in turn, serves said town.

We are of the opinion that the application should be granted subject to the conditions and modifications set forth in the order following this opinion.

ORDER.

Northern California Power Company, Consolidated, a corporation, having filed the above-entitled application, and public hearings having been held upon the same, and the matter being now ready for decision, the Railroad Commission hereby declares that present and future public convenience and necessity require the operation by applicant of its electric lines in Trinity County from Lappin Mine through Lewiston to Weaverville and from Lewiston to the Minersville post office, and the furnishing by it of electric energy to all the portion of Trinity County lying east of a north and south line drawn through the center of the town of Weaverville which it will be practicable for it to serve, including the electric energy furnished to the Weaverville Electric Company, but excluding any other service within the unincorporated town of

Weaverville and excluding service within any territory now served by California-Oregon Power Company in Trinity County; and the Railroad Commission hereby declares that public convenience and necessity require the exercise within the above-described territory of the rights and privileges conferred upon H. R. Gibbon by the ordinance of the board of supervisors of Trinity County adopted September 7, 1916, which rights and privileges were thereafter assigned by said H. R. Gibbon to Northern California Power Company, Consolidated, and which ordinance is more particularly described in the opinion which precedes this order, provided that Northern California Power Company, Consolidated, shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, agreeing for itself, its successors and assigns, that they will never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by said ordinance or franchise in excess of the actual cost thereof to said H. R. Gibbon, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation in form satisfactory to the Railroad Commission has been filed herein; and provided, further, that applicant shall not in the future make any extension into any portion of Trinity County which may at that time be served by California-Oregon Power Company, unless applicant shall first have obtained an order of this commission authorizing it to make such extension.

Dated at San Francisco, California, this 3d day of March, 1917.

DECISION No. 4147.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY A CERTAIN ORDINANCE PASSED BY THE BOARD OF TRUSTEES OF THE CITY OF DINUBA ON JUNE 23, 1915.

Application No. 2708.

Decided March 3, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on February 28, 1917, filed with this Commission a stipulation in accordance with the order heretofore made in this proceeding on February 1, 1917 (Decision No. 4077), which stipulation provides that said company, its successors and assigns, will never claim before the Railroad Commission,

or any other public authority, any value for the rights and privileges conferred by a certain ordinance in the city of Dinuba entitled "An ordinance granting a franchise to the Pacific Telephone and Telegraph Company (passed by the board of trustees of the city of Dinuba on June 23, 1915)" in excess of the sum of \$112.50, the amount stated by applicant to have been paid therefor at the time said ordinance was adopted; and it appearing to this commission that said stipulation is in form satisfactory to this commission so far as may be necessary for the purposes of this proceeding.

It is hereby ordered that said stipulation be and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 3d day of March, 1917.

DECISION No. 4148.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY ORDINANCE No. 169 OF THE CITY OF SELMA.

Application No. 2709.

Decided March 3, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

The Pacific Telephone and Telegraph Company having, on February 28, 1917, filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on February 7, 1917 (Decision No. 4091), which stipulation provides that said company, its successors and assigns, will never claim before the Railroad Commission, or any other public authority, any value for the rights and privileges conferred by Ordinance No. 169 of the city of Selma in excess of the sum of \$105.00, the amount stated by applicant to have been paid therefor at the time said ordinance was adopted; and it appearing to this commission that said stipulation is in form satisfactory to this commission so far as may be necessary for the purpose of this proceeding.

It is hereby ordered that said stipulation be and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this 3d day of March, 1917.

DECISION No. 4149.
CITY OF RICHMOND
vs.
UNION WATER COMPANY.

Case No. 989.

Decided March 3, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that complainant does not desire to proceed further with the action entitled as above,

It is hereby ordered that the same be and it is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 3d day of March, 1917.

DECISION No. 4150.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 287 GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2755.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 288 GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2756.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 289 GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2757.

Decided March 3, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicant having filed stipulation, as required by the order of the Railroad Commission heretofore made on February 20, 1917, to the effect that he, or his successors and assigns will never claim before the Railroad Commission or any court or other public body a value for the wharf franchises described therein in excess of the respective costs

thereof, which costs are respectively stipulated to have been the sums of \$127.73 for franchise No. 287, \$127.23 for franchise No. 288, and \$118.98 for franchise No. 289,

It is hereby ordered that said stipulation be and the same hereby is approved.

Dated at San Francisco, California, this 3d day of March, 1917.

Decisions Nos. 4151, 4152 and 4153, grade crossings; not printed. See end of volume.

DECISION No. 4154.

IN THE MATTER OF THE APPLICATION OF C. L. CHRISMAN, FOR AN ORDER PRELIMINARY TO ISSUE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT ELECTRIC POWER PLANT WITHIN CITY OF SAN BUENAVENTURA.

Application No. 2725.

Decided March 3, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Attorneys for applicant having requested that the above application be dismissed,

It is hereby ordered by the Railroad Commission of the State of California that the above application be and it is hereby dismissed.

Dated at San Francisco, California, this 3d day of March, 1917.

Decision No. 4155, grade crossing; not printed. See end of volume.

DECISION No. 4156.

J. L. BEERMAN

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 955.

Decided March 3, 1917.

A utility is required to return with interest at 5 per cent per annum a \$5.00 deposit upon a showing by a consumer that such deposit was made irrespective of the fact that the books of the utility fail to show same. Defendant directed to pay complainant the sum of 20 cents, being the amount of deposit, with interest, less bills for service at present due defendant from the complainant.

J. L. Beerman, in propria persona.

L. D. deFremery and R. W. Deutch, for Pacific Gas and Electric Company.

By THE COMMISSION.

OPINION.

Complaint herein alleges that on the 28th day of April, 1908, he paid a cash deposit of \$5.00 to the defendant corporation, the deposit being required by the company as a condition precedent to the installation of a meter at 1901 Webster street, San Francisco, and the serving of those premises with gas. Complainant further alleges that the premises were vacated on November 15, 1915, at which time demand was made upon defendant for the return of the deposit and interest thereupon and that the defendant refused to return the deposit. Complainant prays that this commission order the defendant to return the deposit as aforesaid.

Defendant in its answer denies the payment of the deposit and alleges that a complete record of such deposits was kept by the company during the year 1908 and subsequent thereto, and that the said records do not disclose payment of any sum by the complainant to defendant.

As a separate defense defendant claims that complainant is indebted to defendant in the sum of \$4.85 for gas and \$1.85 for electricity furnished, which fact is admitted by complainant.

A public hearing was held in this matter at San Francisco before Examiner Encell, at which time complainant offered evidence, positive in its character, to the effect that he had paid such a deposit to the company. Other witnesses testified in his behalf that they had seen the receipt given by the defendant for the deposit. Against this testimony the defendant produced its books and records, which showed no record of a deposit having been received from Mr. Beerman and it was urged that if a deposit had been required it would appear in the records, and it was further urged that it was possible that Mr. Beerman, having been a previous consumer of the company at another location, had not been required to make a deposit.

From the evidence herein, we conclude that the deposit was made and that Mr. Beerman is entitled to a return of the balance due him. It has been a rule of the company during the past that interest would be paid at the rate of 5 per cent per annum on all deposits during the time that they were held and the consumer continued to take service. It would, therefore, appear on November 15, 1915, that the amount due Mr. Beerman on the deposit was \$6.89. It appears, however, as noted above, that the complainant is indebted to the defendant in the sum of \$4.85 for gas and \$1.85 for electricity furnished.

The deposit was made, according to the testimony, for gas service only and it does not appear that it was made to guarantee payment for electric service. The company can not legally apply such deposit to the liquidation of an electric bill. We believe, however, in this instance, as the electric bill is admitted by the complainant, yet apparently pay-

ment has been held up pending the outcome of this proceeding, that it would be reasonable to deduct the amount of the electric bill from the total deposit due in settling the account, and that, therefore, the Pacific Gas and Electric Company should pay to Mr. Beerman the sum of 19 cents as balance due the consumer upon deposit with interest at 6 per cent per annum from December 1, 1915 (the effective date of the order in Case No. 683), to date, making a total of 20 cents.

ORDER.

Mr. J. L. Beerman having complained to this commission that he had made a deposit for gas service with Pacific Gas and Electric Company, a corporation, and that the Pacific Gas and Electric Company, a corporation, had refused to return the deposit upon the vacation of the premises,

And a public hearing having been held, and it appearing from the evidence introduced that Mr. Beerman is entitled to a return of the balance of his deposit still due, amounting to 20 cents,

It is hereby ordered that within twenty days from the date of this order Pacific Gas and Electric Company, a corporation, shall return to Mr. J. L. Beerman the sum of 20 cents as final payment of balance due upon deposit held by said company.

Dated at San Francisco, California, this 3d day of March, 1917.

DECISION No. 4157.

IN THE MATTER OF THE APPLICATION OF CITIZENS WATER COMPANY OF SAN JACINTO, TO CHANGE AND INCREASE ITS RATES FOR WATER SERVICE.

Application No. 994.

Decided March 5, 1917.

The filing of several classes of water certificates by a public utility water company, one of which provides no charge for extra water and the other which provides for a maximum rate, can not be accepted by the commission as the rates and charges of such utility duly filed in accordance with law.

Order made establishing rate of 15 cents per miner's inch day during irrigation season and 5 cents per miner's inch day during winter months with additional charge of 11 cents per day inch when booster plant is necessary to supply water. Such rates to be effective for year 1915.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas it appears Citizens Water Company of San Jacinto asks that by supplemental order rates be fixed for its service of water to consumers for the year 1915.

By order dated February 29, 1916, this commission fixed rates and thereafter by supplemental order these rates were made effective as of March 15, 1916.

The original application to have its rates fixed was made by Citizens Water Company of San Jacinto, February 16, 1914, but at the instance of the company a long delay occurred and the matter was not finally decided until the order above mentioned was made.

Meantime, for the year 1915, the company charged its consumers the full amount permitted under water certificates then outstanding, but only collected a part of such charges.

Two forms of water certificates were filed on November 20, 1912, with the commission as its schedule of rates.

In Class "A" certificates, rate set out is \$3 per acre for the use of water during each irrigating season of seven months, commencing March 15, the water to be delivered at the rate of one inch to five acres of land. Nothing is said about extra water, and for extra water the company charged 15 cents per miner's inch day but collected only 10 cents.

Class "B" certificates provide for an annual due of \$3 for each acre of land irrigated, at the rate of one inch of water to seven acres of land, the \$3 to be paid in advance on the 15th day of March of each year. This annual due is stated to be a credit on water charges payable for water used during the irrigation season of the same year for which this annual due was paid. And there is a further provision that the water rates or charges for water during any irrigation season shall be at a rate not to exceed 15 cents for a run of 12,960 gallons for 24 hours. Under this rate the company charged the 15 cents but collected only 10 cents.

The reason why the company did not collect the full amount charged was because of the pendency of the proceeding to fix rates before the commission, and at the suggestion of the commission the matter was allowed to remain in abeyance pending a final fixing of rates.

The filing of these certificates did not comply with the Public Utilities Act. It will be noted that no provision for extra water is made in Class "A" certificates, and the Class "B" certificates provide for a maximum rate. This is not filing a schedule of specific rates to be charged and therefore no legal rates were established.

However, the service was rendered by the company to the consumers and it becomes necessary that the commission fix the rate for the year 1915.

In its order of February 29, 1916, the commission fixed the same rates for all consumers regardless of what class of certificates were held and we should follow that precedent here

It remains only to determine what the reasonable rate for 1915 was for all consumers.

It is logical to apply as far as possible for 1915, the rates found to be reasonable by the commission for 1916, and while no exact comparison can be made between the rates charged by the company in 1915 with the rates in 1916 because of the difference in form, nevertheless, it appears that these rates are approximately the same as far as they affect the income of the company and the burden on the consumer.

Wherefore, it is ordered that the reasonable rates to be charged by Citizens Water Company of San Jacinto for water served its consumers during the year 1915 are 15 cents per miner's inch day during the irrigation season and 5 cents per miner's inch day for winter water.

For all water furnished to lands to which the water must be supplied through a booster plant, 11 cents per day inch in addition to the rate hereinabove established.

Dated at San Francisco, California, this 5th day of March, 1917.

DECISION No. 4158.

**IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES
GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE
BONDS.**

Application No. 2542.

Decided March 5, 1917.

Applicant authorized to issue \$35,000.00 face value of its bonds to be sold at not less than 92½, such bonds being portion of an original authorization of \$370,000.00, proceeds to be used for the purpose of reimbursing treasury covering capital expenditures made.

Hunsaker & Britt and LeRoy M. Edwards, by D. M. Hunsaker, for Applicant.

BY THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas by Decision No. 3748, dated October 2, 1916, this commission authorized Southern Counties Gas Company of California to issue \$370,000.00 face value of its first mortgage 5½ per cent twenty-year bonds; and

Whereas said Decision No. 3748 provided that \$85,000.00 of said bonds might be issued forthwith and that the balance of \$285,000.00 of said bonds should be issued only upon supplemental orders from this commission for the purpose of providing funds to pay 80 per cent of the cost of applicant's proposed improvements from August 31, 1916, to July 31, 1917; and

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Whereas by Decision No. 3832, dated November 2, 1916, applicant was authorized to issue \$37,000.00 face value of said \$285,000.00 to pay for 80 per cent of the expenditures for improvements and acquisition of property as set forth in said Decision No. 3832; and

Whereas by Decision No. 3941, dated December 20, 1916, applicant was authorized to issue \$36,000.00 face value of said \$285,000.00 to pay for 80 per cent of the expenditures for improvements and acquisition of property as set forth in said Decision No. 3941; and

Whereas by Decision No. 4072, dated January 31, 1917, applicant was authorized to issue \$61,000.00 face value of said \$285,000.00 to pay for 80 per cent of the expenditures for improvements and acquisition of property as set forth in said Decision No. 4072; and

Whereas applicant has now filed with this commission a statement of capital expenditures for the month of December, 1916, of \$43,766.40; and

Whereas applicant has now represented to the commission that during the months of September, October, November and December, 1916, it has expended for permanent extensions, betterments, improvements, and additions to its existing plants and properties the sum of \$211,724.38, against which it is entitled to issue bonds under the terms of its deed of trust in the sum of \$169,379.50; and

Whereas bonds to the extent of \$134,000.00 have been authorized by this commission under its Decisions Nos. 3832, 3941 and 4072, leaving a balance of \$35,379.50 against which applicant is still entitled to issue bonds under the terms of its deed of trust; and

Whereas applicant has now applied to this commission for authority to issue \$35,000.00 face value of its first mortgage $5\frac{1}{2}$ per cent twenty-year bonds; and

Whereas applicant has satisfied the earning requirements of its deed of trust in that its net earnings for twelve months ending December 31, 1916, exceed one and one-half times the annual interest on bonds outstanding, plus the interest on bonds proposed to be issued; and

Whereas applicant has further represented to this commission that it is unable to follow the construction program laid down in its Exhibit "F," filed in connection with the original application herein on October 2, 1916; and

Whereas applicant has requested that it be permitted to issue the balance of the bonds remaining out of the \$285,000.00 originally authorized, in accordance with a revised construction program as set forth in Exhibit "C," attached to the fourth supplemental application herein; and a hearing having been held; and it appearing to this commission that applicant's requests are reasonable and should be granted and that the purposes for which it is proposed to issue

said bonds are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Southern Counties Gas Company of California be and it is hereby granted authority to issue \$35,000.00 face value of its first mortgage 5½ per cent twenty-year bonds, said bonds being a part of the \$285,000.00 face value of bonds to which reference is made in Decision No. 3748, dated October 2, 1916.

It is hereby further ordered that the conditions upon which Southern Counties Gas Company of California may issue the \$116,000.00 face value of bonds remaining out of the \$285,000.00 face value of bonds authorized by Decision No. 3748 be and they are hereby changed and amended to allow Southern Counties Gas Company of California to issue said \$116,000.00 face value of bonds, for the purpose of providing funds to pay 80 per cent of the cost of its proposed improvements from January 1, 1917, to July 31, 1917, as set forth in the following schedule:

Pomona Brea line-----	\$7,000 00
Whittier-Monrovia line -----	25,000 00
Santa Ana District.	
Distribution -----	22,000 00
Equipment -----	2,000 00
Whittier District.	
Distribution -----	10,000 00
Equipment -----	1,000 00
Pomona District.	
Distribution -----	50,000 00
Equipment -----	2,000 00
Monrovia District.	
Distribution -----	15,000 00
Equipment -----	1,000 00
Long Beach District.	
Distribution -----	10,000 00
Equipment -----	
Santa Monica Bay District.	
Distribution -----	5,000 00
Equipment -----	2,000 00
General and miscellaneous-----	4,905 58
	<hr/>
	\$156,905 58

Said \$116,000.00 face value of bonds shall only be issued, however, upon supplemental orders from this commission and in all other respects in accordance with this commission's Decision No. 3748, dated October 2, 1916, and such orders as have been or may be issued supplemental thereto.

The authority herein granted to issue said \$35,000.00 face value of bonds is granted upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall net applicant not less than 92½ per cent of their face value, plus accrued interest thereon.

2. The proceeds derived from the sale of said \$35,000.00 face value of bonds shall be used to reimburse applicant for expenditures for additions and betterments; the moneys to be applied upon applicant's notes and accounts payable as listed with this commission in Exhibits Nos. 1 and 2, filed in this proceeding on February 24, 1917.

3. Southern Counties Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

5. The bonds herein authorized to be issued shall be issued on or before June 30, 1917.

Dated at San Francisco, California, this 5th day of March, 1917.

Decision No. 4159, grade crossing, not printed. See end of volume.

DECISION No. 4160.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION, ORO WATER, LIGHT AND POWER COMPANY, OROVILLE LIGHT AND POWER COMPANY, OROVILLE WATER COMPANY AND PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID ORO ELECTRIC CORPORATION, ORO WATER, LIGHT AND POWER COMPANY, OROVILLE LIGHT AND POWER COMPANY AND OROVILLE WATER COMPANY TO SELL AND CONVEY TO PACIFIC GAS AND ELECTRIC COMPANY CERTAIN PROPERTIES; AND AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY TO ISSUE ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO USE THE PROCEEDS TO PAY FOR SAID PROPERTIES.

Application No. 2407.

Decided March 7, 1917.

Supplemental order approving stipulations filed by Pacific company with reference to values to be claimed for franchises acquired, improvements and repairs to be made and extensions to be constructed in connection with properties purchased.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission hereby declares that Pacific Gas and Electric Company has filed with the Railroad Commission stipulations

herein, in form satisfactory to the Railroad Commission, duly authorized by the board of directors of Pacific Gas and Electric Company, declaring as follows:

1. That Pacific Gas and Electric Company, its successors and assigns, will never claim in any proceeding of any character before the Railroad Commission, or any other public authority, any value for the franchises and permits which Pacific Gas and Electric Company may acquire from any of the other petitioners in the above-entitled proceeding in excess of the amount which was paid by the original grantee of each such franchise or permit to the public authority granting the same, which amount is not known to any of said other petitioners, was probably nominal in amount and, therefore, for the purpose of the stipulation, shall be deemed to be nothing;

2. That Pacific Gas and Electric Company, its successors and assigns, will promptly proceed to renovate and repair in an efficient manner the water distribution system at Thermalito, in Butte County, California; and,

3. That Pacific Gas and Electric Company, its successors and assigns, will pursue a liberal policy of extension of electric development in the territory in which the Railroad Commission heretofore granted to Oro Electric Corporation certificates of public convenience and necessity.

The Railroad Commission further declares that Pacific Gas and Electric Company has submitted to the Railroad Commission, a letter dated March 2, 1917, from A. F. Hoekenbeamer, second vice president and treasurer of Pacific Gas and Electric Company, together with proposed book entries in connection with the proposed acquisition of the properties described in Exhibits A, B and C attached to and made a part of the order of January 8, 1917, in the above-entitled proceeding, which entries consist of a debit entry of \$1,491,151.35, under the head of "Cost of Plant Purchased in Lieu of Plant Constructed" and a credit entry in the same amount under the head of "Oro Electric Corporation Purchase Account."

The Railroad Commission further declares that Pacific Gas and Electric Company has filed herein an accurate description of the territory in which Oro Electric Corporation has constructed electric transmission and distribution systems and in which Pacific Gas and Electric Company desires to exercise rights under certificates of public convenience and necessity heretofore granted by the Railroad Commission to Oro Electric Corporation, which territory, being located in San Joaquin and Calaveras counties, is more particularly described as follows:

San Joaquin County.

Commencing at the point of intersection of the line between the Counties of Calaveras and San Joaquin with the southerly

boundary line of Section 11 in Township 3 North, Range 9 East, M. D. M., running thence westerly along a line parallel with and two miles south from the north line of Township 3 North, Range 9 East, T. 3 North, Range 8 East, T. 3 North, Range 7 East, T. 3 North, Range 6 East, T. 3 North, Range 5 East to an intersection with a line drawn parallel to and $7\frac{1}{2}$ miles distant easterly from the boundary line between the Counties of San Joaquin and Sacramento; said point of intersection occurring approximately on the south boundary of Section 8, Township 3 North, Range 5 East; thence southerly and following a line meandering to correspond to the boundary line separating the Counties of San Joaquin and Contra Costa and distant $7\frac{1}{2}$ miles easterly from said County Line to an intersection with Old River, which said Old River is situated approximately one mile south of the Grant Line Canal, constructed across Township 1 South, Range 5 East, M. D. B. & M.; thence easterly and northerly following the meanderings of said Old River to its confluence with the San Joaquin River, approximately in Section 33 of Township 1 South, Range 6 East, M. D. B. & M.; thence northerly and following the meandering of said San Joaquin River and along the easterly bank thereof to a point situated approximately in the center of Section 9 in Township 1 South, Range 6 East, M. D. B. & M.; thence northeasterly in a straight line passing approximately through the towns of Castoria and Peters to an intersection with the County Line, separating the Counties of San Joaquin and Stanislaus at a point approximately at the northeast corner of Section 13, Township 2 North, Range 9 East, M. D. B. & M.; thence northerly and following the boundary line between the Counties of San Joaquin and Stanislaus to the point where said boundary line intersects the westerly boundary line of the County of Calaveras at approximately the southwest corner of Section 30, Township 3 North, Range 10 East; thence northerly and westerly and following the westerly boundary line of the County of Calaveras to the point of beginning, excluding the City of Stockton, as its boundaries were defined and delineated on July 3, 1912.

Calaveras County.

That portion of Calaveras County which is bounded on the west by the westerly boundary line of the County, on the northeast by a line from Camanche to the most northerly point on the northwest boundary line, and on the east by a line from Camanche to the most southerly point on the westerly boundary line of the County, excepting therefrom that portion of the above description lying southerly from an east and west line through the Town of Milton.

The Railroad Commission further declares that Pacific Gas and Electric Company has now complied with conditions 1, 2 and 3 of the order, dated January 8, 1917, herein.

Dated at San Francisco, California, this 7th day of March, 1917.

Decisions Nos. 4161 and 4162, grade crossings; not printed. See end of volume.

DECISION No. 4163.

IN THE MATTER OF THE APPLICATION OF TRADERS OIL COMPANY
FOR AUTHORITY TO DISCONTINUE SERVICE AND OTHER RELIEF.

Application No. 2534.

Decided March 7, 1917.

A corporation serving gas, either directly or indirectly, to the public or a portion of the public is a public utility subject to the jurisdiction of this commission as defined under the provisions of the Public Utilities Act.

A public utility which has for a period of time devoted its supply of gas, or a portion thereof, to the public use, can not divert such supply for personal uses, nor is the inclusion of a clause in a lease or contract purporting to give such utility the right to divert such supply to its own uses sufficient to give the utility a right prior to the public's right thereto.

Crail & Crail, for Applicant.

Henry S. Richmond, for City of Coalinga.

G. W. Satchell, for Coalinga Gas and Power Company.

John B. Yakey and *J. H. Allen*, for Coalinga Pipe Line Company.

BY THE COMMISSION.

OPINION.

This is an application of Traders Oil Company, a corporation, for an order of this commission declaring that applicant is not a public utility and in the event that such an order be not made, for an order of this commission granting the applicant an increase in the rates which it now charges Coalinga Pipe Line Company, a corporation, for natural gas obtained by the latter corporation from the applicant's natural gas well near the city of Coalinga.

The matter was heard before Examiner Encell at Los Angeles on September 12 and 21, 1916. At the hearing it was agreed by counsel representing all the parties in interest that the question as to the public utility nature of applicant should be determined first, and in the event that the commission found applicant to be a public utility, that a later hearing be held by the commission in respect to rates.

The affairs of the Traders Oil Company with respect to the supply of natural gas derived from its property near Coalinga was before this commission in Application No. 2066. At that time the applicant was not represented by counsel and offered no testimony in support of the application other than statements that the gas was more valuable to the Traders Oil Company for fuel purposes than the price they were receiving therefor from Coalinga Pipe Line Company, and that they should therefore be allowed to discontinue the service or raise the rate so that the net return on the gas sales would equal the amount expended by

them for fuel oil in the operations in which they desire to substitute the gas for fuel purposes.

At the hearing on that application no evidence was introduced upon which the commission could determine the original cost, present value or probable life of the physical property, expense of operation or income, or any other factor upon which the commission would necessarily have to depend in fixing a reasonable rate. The application was, therefore, dismissed by the commission without prejudice.

Applicant is the owner of the southeast quarter of the southeast quarter (SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$) of section thirty-five (35), township twenty (20) south, range fourteen (14) east, M. D. B. and M., in the Coalinga oil fields, upon which is located a certain gas well drilled by one B. I. Potter, at that time a lessee of the Traders Oil Company. Under the terms of that lease the lessor was to receive as rental or royalty 25 per cent of all the oil, petroleum, asphalt, natural gas or other hydrocarbon substance produced from the wells bored upon the premises.

For the purpose of disposing of this gas, Mr. Potter organized the Coalinga Pipe Line Company, which was incorporated under the laws of this state on October 27, 1913. On November 6, 1913, the lessees of Traders Oil Company entered into a contract with Coalinga Pipe Line Company, under the terms of which the lessees agreed to sell and the Coalinga Pipe Line Company agreed to buy all the natural gas produced on the tract of land hereinabove described. Thereafter the Coalinga Pipe Line Company constructed a two and one-half ($2\frac{1}{2}$) inch pipe line to Coalinga and upon the completion of this transmission main the pipe line company entered into a contract selling the gas to Coalinga Gas and Power Company, which latter company was and is the owner of the gas distributing mains in the city of Coalinga, which company in turn sold the same to the gas consumers of Coalinga. This supply of natural gas has been used by the people of the city of Coalinga since early in the year 1914. Not only was the 75 per cent of the production which belonged to the lessee sold to the city of Coalinga but the 25 per cent as well which, under the terms of the lease, was the property of Traders Oil Company, has throughout that period been sold to the same community.

Nor was this sale without the knowledge and consent of Traders Oil Company.

There was introduced at the hearing correspondence, the first of which was dated June 11, 1914, and the last of which was dated November 19, 1915, which fully shows that Traders Oil Company was aware of conditions surrounding the sale of this gas supply and received money there-

for. On June 11, 1914, Mr. M. V. McQuigg, as president of Traders Oil Company, wrote the Coalinga Gas and Power Company as follows:

"Also please be advised that 25 per cent of said gas belongs to the Traders Oil Company as royalty, and you are hereby requested to make payment to said company for 25 per cent."

On June 19, 1914, Mr. McQuigg wrote to Coalinga Pipe Line Company to the same effect.

On June 19, 1914, Traders Oil Company again addressed Coalinga Gas and Power Company in part as follows:

"You as purchasers of that gas, as well as the Coalinga Pipe Line Company, will be held responsible for that portion of said gas representing our royalty, which is 25 per cent."

On August 7, 1914, Coalinga Pipe Line Company remitted to Traders Oil Company the money due that company for its share of the proceeds from the sale of the gas. On August 11, 1914, Traders Oil Company acknowledged receipt of the same. In the months of September, October and November similar transactions took place.

On September 28, 1915, applicant served notice on B. I. Potter that the covenants of the lease entered into by and between himself and applicant had been broken and demanded immediate performance on the said Potter's part of all the obligations, covenants and agreements required of him under the terms of said lease.

The lessees of Traders Oil Company having failed to fulfill the requirements of their lease, Traders Oil Company canceled the same, took possession of the property and continued to serve Coalinga Pipe Line Company with the full supply of gas which flowed from the well, and on November 4, 1915, Traders Oil Company notified Coalinga Pipe Line Company of the forfeiture of the lease and stated to that company that "hereafter you will be held directly responsible to this company for all gas taken from said property."

On November 23, 1915, Traders Oil Company notified Coalinga Pipe Line Company that any further payments for gas taken from the property must be made to Traders Oil Company and stated further:

"We are now cleaning out the oil wells in order to determine whether or not they will produce sufficient oil for fuel at our water plant. If not, it will be necessary for us to use a portion of the gas from the gas well."

On December 15, 1915, Traders Oil Company wrote to Coalinga Gas and Power Company as follows:

"* * * We hereby authorize you to make payment to the Coalinga Pipe Line Company for all gas received by you prior to November 25th. After that time make no payments except to the Traders Oil Company."

On January 20, 1916, Mr. McQuigg, addressing Coalinga Gas and Power Company, again reiterated his instructions not to pay any money for gas to Coalinga Pipe Line Company and in closing that communication said:

“In this relation, we are preparing to discontinue the service permanently, for we have a demand and use for this gas ourselves and it is worth so much to our company that you probably can not afford to pay its equivalent value to this company.”

On January 28, 1916, applicants herein filed with the commission the application in No. 2066, hereinabove referred to.

From the statements contained in the correspondence hereinabove referred to it will be seen that with the knowledge and consent of applicant herein the gas supply derived from applicant's land was sold to the community of Coalinga from June 11, 1914, to January 28, 1916.

From the eleventh day of June, 1914, to the first of November, 1915, applicant herein was the owner of one-fourth of the supply of gas derived from the well herein referred to and from the first of November, 1915, to the twenty-eighth day of January, 1916 (the date of the filing by applicant of its formal application No. 2066 to discontinue service or increase rates), applicant was the owner of the entire amount of gas flowing from that well.

The position taken by applicant in relation to the foregoing facts is: first, that the applicant is not a public utility and that the gas supply from said well has not been dedicated to the public use; and second, that under the provisions of the lease between applicant and the original lessee, the applicant is entitled and has a right to the supply, which right is prior to the rights of the public or any other party thereto. The provision of the lease upon which applicant depends is as follows:

“The said lessor hereby reserves the right to take delivery of its royalty at its water plant on said property, *and it also reserves the right to buy from said lessor any portion or all of said production at the general market price for the operation of its water pumping plant on said premises.*”

(The word *lessor* last appearing herein is evidently a typographical error and should read “lessee.”)

The questions to be decided by the commission in this case are:

First—Is applicant a public utility?

Second—If so, is it relieved from its public utility functions by the reservation above stated, which is contained in its lease?

The constitution of this state provides in part, in section 23, article XII, as follows:

“Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling, any
* * * canal, pipe line, plant or equipment, or any part of such

* * * canal, pipe line, plant or equipment within this state
 * * * for the production, generation, transmission, delivery or
 furnishing of heat, light, water or power * * * either directly
 or indirectly to or for the public is hereby declared to be a public
 utility subject to such control and regulation by the Railroad Com-
 mission as may be provided by the legislature."

The term "public utility" as defined in the Public Utilities Act, as amended by chapter 553 of the laws of 1913 (Statutes 1913, p. 934), reads in part as follows:

"(bb) The term 'public utility,' when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, where the service is performed for or the commodity delivered to the public or any portion thereof. The term '*public or any portion thereof*,' as herein used means the public generally, or any limited portion of the public including a person, private corporation, *municipality* or other political subdivision of the state, for which the service is performed or to which the commodity is delivered, and whenever any common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, or warehouseman performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, pipe line corporation, gas corporation, electrical corporation, water corporation, wharfinger or warehouseman is hereby declared to be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this act."

Under the foregoing definitions taken from the constitution and statutes of this state, it seems unnecessary to cite the numerous decisions of the commission in order to sustain the position that applicant herein is a public utility. Applicant surely can not contend that it has not *indirectly* been serving the *public or any portion thereof* with one-fourth of the gas supply from its well for a period of more than eighteen months, and with the entire supply therefrom for a period of approximately three months before it took any steps to be relieved from any public duty which may have grown out of its conduct as the same relates to the public. We therefore expressly find that applicant herein is a public utility as the same is defined in section 2 of the Public Utilities Act. Applicant by its conduct herein in relation to the gas well has become a public service corporation. It has become an agent or an instrumentality for the carrying out of the public's use therein, subject to such regulation as is vested in this commission under the constitution and statutes of this state.

"An express contract is not essential to establish reciprocal rights between the public service company and the public it undertakes to

serve. Such rights arise by implication of law. If the regulations are in law or in fact illegal for any reason they are not binding and the company has its remedy by appropriate proceedings but the company being engaged in rendering a public service must continue to do so in a reasonably adequate manner until relieved of its duty by due process of law. The service to the public must be performed." (*Gainesville vs. Gainesville Gas and Electric Company*, 62 So. 919.)

Nor do we believe that the reservation in the lease will serve to give applicant a right in the gas supply which is prior to the public right therein. For a period of three months it devoted this supply to a public use. The case of *Leavitt vs. Lassen*, 157 Cal. 82, we believe is analogous to the case herein. In the former case a water supply is involved, the original proprietor relying upon a reservation similar to the one herein contained for a free supply of water to his ranch. In that case the court said:

"As the agent of such a public use, he had no power whatsoever to reserve to himself for his private purposes any part of this water. If he could reserve a part, he could reserve all, and thus, by his *ipse dixit*, convert a public use into private ownership, or, if he could reserve a part for himself, he could with equal authority give away parts of the supply to others, and by this method destroy what the constitution itself has declared shall forever remain a public use. Therefore, the only tenable ground upon which respondent can stand is that, with his appropriation for public use, he became a private appropriator of water for use upon his Buggytown Ranch. If this be so, then his rights to water would be measured as are the rights of every other private appropriator—not by the amount which he took, not by the amount which he claimed, not, as the court decrees, by an amount sufficient thoroughly and properly to irrigate a thousand acres of land; but it would be measured by the amount which he had been actually taking and applying to a beneficial use upon that land. His right to priority in the use of water would also be measured according to these facts and limited to this quantity. *Senior vs. Anderson*, 115 Cal. 496 (47 Pac. 454); *Smith vs. Hawkins*, 120 Cal. 86 (52 Pac. 139); *Strong vs. Baldwin*, 137 Cal. 440 (70 Pac. 288). * * * If, however, the facts should be that he did not make such private appropriation, his attempted reservation of a private right out of a public trust, as above stated, would be futile and void."

It will be understood, of course, that the present decision deals only with the question of this commission's jurisdiction.

ORDER.

A public hearing having been held in the above-entitled case on the question as to whether the Railroad Commission has jurisdiction over the applicant, and this question now being ready for decision,

The Railroad Commission, on reliance on each statement or finding of fact contained in the opinion which precedes this order, hereby finds as a fact that the natural gas properties of Traders Oil Company, a corporation, situated in the southeast quarter of the southeast quarter (SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$) of section thirty-five (35), township twenty (20) south, range fourteen (14) east, M. D. B. and M., is a public utility and subject to the jurisdiction of the Railroad Commission.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4164.

IN THE MATTER OF THE APPLICATION OF STANDARD OIL COMPANY
FOR AUTHORITY TO ISSUE 248,433 AND A FRACTION SHARES OF
COMMON STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS
EACH.

Application No. 2777.

Decided March 7, 1917.

Applicant authorized to issue \$248,433.00 and a fraction shares of its common capital stock of the par value of \$100.00 per share, such stock to be distributed ratably among its stockholders in lieu of a cash dividend.

Oscar Sutro, of Pillsbury, Madison & Sutro, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

This is an application by Standard Oil Company for authority to issue 248,433 and a fraction shares of its capital stock, of the par value of \$100.00 per share, to its stockholders on account of the reinvestment by the applicant in its assets of a sum slightly in excess of \$24,843,300.00 from its profits. It is proposed to issue this stock on the basis of one-third of a share of new stock for each share of outstanding stock as a dividend to present stockholders in lieu of the disbursement of cash from the company's surplus.

The applicant is engaged in the development and marketing of petroleum and its by-products. Its operations cover practically every activity incidental to this business from the drilling of the wells to the sale at retail of the refined products. As the owner of oil pipe lines, it comes within the scope of chapter 327 of the laws of 1913, declaring oil pipe lines to be public utilities. Its public utility business, however, is only a small part of its general operations.

The applicant reports that it has an authorized issue of 1,000,000 shares of stock of the par value of \$100.00 per share, or a total par value of \$100,000,000.00. It has outstanding at the present time stock

of the par value of \$74,529,983.09. It reports accumulated surplus earnings as of December 31, 1916, in the sum of \$30,782,323.89.

The applicant reports that this sum has been reinvested in its assets and proposes at the present time to distribute to its stockholders approximately \$24,843,300.00 par value of additional stock against this surplus. The applicant reports further that its stock has all been paid for at not less than its par value.

The Standard Oil Company submits the following statement of assets, liabilities, earnings and surplus:

<i>Assets.</i>	
Plant account -----	\$72,010,645 24
Other investments -----	99,369 36
Inventories -----	26,166,271 87
Accounts receivable -----	8,031,708 44
Deferred charges -----	445,508 58
Cash -----	2,646,755 47
Total -----	\$109,400,258 96
<i>Liabilities.</i>	
Capital stock -----	\$100,000,000 00
Less unissued stock -----	25,470,016 91
Issued stock -----	\$74,529,983 00
Accounts payable -----	3,837,951 98
Stock premium account -----	250,000 00
Surplus -----	30,782,323 89
Total -----	\$109,400,258 96
Earnings for year -----	21,263,520 02
Less depreciation -----	3,658,216 28
Net profit -----	\$17,605,303 74
<i>Surplus Account.</i>	
Surplus January 1, 1916 -----	\$44,852,263 02
Cash dividends paid -----	\$6,831,915 13
Stock dividend -----	24,843,327 74
	31,675,242 87
Profit for year -----	\$13,177,020 15
	17,605,303 74
Surplus December 31, 1916 -----	\$30,782,323 89

The applicant offered testimony to the effect that its statement of assets in the sum of \$109,400,258.96 represented the cash cost of such assets; and the surplus represented accumulated earnings over a series of years.

Applications of similar import have been made by this company to this commission, and it may be repeated here that this commission has made no appraisal of the value of applicant's properties, nor has it investigated its books of account, and it will not therefore reach any

conclusions as to the value of applicant's property and as to the amount of applicant's earnings or surplus.

Reference is hereby made to decisions of this commission on similar applications—Decision No. 1243, dated January 30, 1914 (Vol. 4, page 127, Opinions and Orders of the Railroad Commission of California), Decision No. 1245, dated January 31, 1914 (Vol. 4, page 139, Opinions and Orders of the Railroad Commission of California), Decision No. 3129, dated February 25, 1916 (Vol. 9, page 255, Opinions and Orders of the Railroad Commission of California).

In the present situation the applicant has the option of paying out cash or stock in lieu of such disbursement and has chosen the latter course. The company has no bonded debt and merely a relatively small amount of accounts payable.

The applicant has already obtained a certificate from the corporation commissioner of California approving the issue of stock herein proposed. As this commission has jurisdiction over a part of applicant's business, the applicant has also filed its application before this tribunal.

I recommend the application be granted and submit the following form of order:

ORDER.

Standard Oil Company having applied to this commission for authority to issue 248,433 and a fraction shares of common stock of the par value of \$100.00 per share, as set forth in the foregoing opinion, for the purpose of reimbursing its treasury;

And a hearing having been held and it appearing that the purposes for which it proposes to issue such stock are not in whole or in part reasonably chargeable to operating expenses or income,

It is hereby ordered that Standard Oil Company be granted authority and is hereby granted authority to issue 248,433 and a fraction shares of its capital stock at a par value of \$100.00 per share, said stock to be issued ratably to applicant's stockholders.

The authority herein given is given upon the condition that such authorization shall not be taken as a finding by this commission of the value of applicant's properties; nor approval of applicant's submission as to the value of its properties; nor a finding by this commission of the amount of applicant's reinvested earnings or surplus account.

Within thirty days after the stock herein authorized to be issued shall have been issued, Standard Oil Company shall report such issue to this commission, stating the amount of stock so issued.

The authority herein granted shall apply only to such stock as shall have been issued on or before December 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4165.

IN THE MATTER OF THE APPLICATION OF PEOPLES WATER COMPANY
FOR REORGANIZATION.

Application No. 1531.

Decided March 7, 1917.

Supplementing a former order of the commission in which among other securities, \$50,460.00 face value of bonds were authorized to be used to pay off \$87,000.00 face value of bonds of the Peoples Water Company not deposited with the reorganization committee, permission is now given to issue in lieu thereof \$9,302.91 face value of bonds, \$52,200.00 par value class A preferred stock and \$34,800.00 par value class B preferred stock for the purpose of retiring such bonds, provided that upon the issuance of such securities, a proportionate amount of bonds heretofore authorized for such purpose shall be returned to applicant's treasury and canceled.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas on January 20, 1917, this commission issued an order in the above-entitled matter (Decision No. 4034), authorizing East Bay Water Company to issue and deliver to E. S. Heller or his nominees in consideration of the transfer of all the property heretofore owned by Peoples Water Company, first mortgage 5½ per cent thirty-year gold bonds of a face value of \$9,861,672.43; 6 per cent cumulative preferred stock Class "A" of a par value of \$4,437,600.00; 6 per cent noncumulative preferred stock Class "B" of a par value of \$2,958,400.00; and common stock of the par value of \$100,000.00; and

Whereas \$50,460.00 face value of said 5½ per cent thirty-year gold bonds were to be used by said E. S. Heller for the purpose of paying in cash \$87,000.00 face value of the general mortgage 5 per cent bonds of Peoples Water Company, outstanding and undeposited under applicant's reorganization plan on the basis of \$580.00 for each \$1,000.00 of said general mortgage 5 per cent bonds of Peoples Water Company; and

Whereas the reorganization committee of Peoples Water Company and East Bay Water Company have now filed a supplemental petition with this commission stating that many of the undeposited bonds have been located and the owners desire to exchange them for the stock and bonds which were provided for in the plan of reorganization of Peoples Water Company; and asking for authority, in lieu of said \$50,460.00 of East Bay Water Company bonds, to issue bonds and stock as follows, to be used by said E. S. Heller to satisfy the claims of the holders of said \$87,000.00 of Peoples Water Company bonds:

East Bay Water Company bonds, at \$106.93 each.....	\$9,302 91
Class "A" preferred stock, 60 per cent of \$87,000.....	52,200 00
Class "B" preferred stock, 40 per cent of \$87,000.....	34,800 00

And whereas, under the plan here proposed, the holders of said \$87,000.00 of Peoples Water Company bonds will be enabled to participate in the reorganization on the same basis as all other bondholders of Peoples Water Company; and

Whereas it appears to this commission that the applicant's proposal is reasonable and should be granted and that the purposes for which it proposes to issue said stocks and bonds herein requested to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that East Bay Water Company be granted authority to issue the following stocks and bonds:

\$9,302 91 face value of its 5½ per cent thirty-year gold bonds.....	\$9,302 91
522 shares of its Class "A" cumulative preferred stock of the par value of \$100.00 per share or a total par value of.....	52,200 00
348 shares of applicant's Class "B" preferred stock of the par value of \$100.00 per share, a total par value of.....	34,800 00

Provided, that the stocks and bonds herein authorized to be issued shall be issued to E. S. Heller in part payment for the properties formerly owned by Peoples Water Company, transferred by him to East Bay Water Company; the intention being that the stocks and bonds herein authorized to be issued shall be made available for distribution *pro rata* among the holders of \$87,000.00 face value of bonds of Peoples Water Company heretofore outstanding and undeposited under applicant's plan of reorganization.

Provided, further, that the bonds and stock herein authorized shall be issued in exchange for East Bay Water Company bonds, and in the following proportions:

For each \$106.95 face value of bonds plus \$600.00 par value of Class "A" stock, plus \$400.00 par value of Class "B" stock to be issued there shall be returned to the treasury of East Bay Water Company \$580.00 face of East Bay Water Company bonds.

On or before the twenty-fifth day of each month, the applicant shall make a report to this commission of such action as it may have taken during the preceding month under the authorization herein.

The authority herein given shall apply to such stocks and bonds as shall be issued on or before April 15, 1917.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4166.

IN THE MATTER OF THE APPLICATION OF RIVERSIDE HOME TELEPHONE AND TELEGRAPH COMPANY AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING RIVERSIDE HOME TELEPHONE AND TELEGRAPH COMPANY TO SELL AND AUTHORIZING THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE THE REAL ESTATE, PLANT, EQUIPMENT, MATERIALS AND SUPPLIES OF RIVERSIDE HOME TELEPHONE AND TELEGRAPH COMPANY.

Application No. 2174.

Decided March 7, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission hereby declares that The Pacific Telephone and Telegraph Company has filed herein a stipulation, duly authorized by its board of directors, in form satisfactory to the Railroad Commission, reciting that The Pacific Telephone and Telegraph Company undertakes and agrees for itself, its successors and assigns, as follows:

(a) To accord to each telephone subscriber, present and prospective, in the city of Riverside and adjacent territory served out of the Riverside exchange of The Pacific Telephone and Telegraph Company, such telephone service, whether automatic or manual, as such subscriber may desire, and to give to each such subscriber access to each such other subscriber, without discrimination, in the Riverside exchange of The Pacific Telephone and Telegraph Company and to exercise absolute impartiality, both in service and in solicitation for business as between the automatic instrument and the manual instrument.

(b) To accord to each subscriber in the Riverside exchange, whether his telephone instrument is automatic or manual, access, without discrimination, to the long distance lines of The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company.

(c) To establish and thereafter maintain first-class telephone service for all automatic subscribers in the Riverside exchange, the quality of the service thus to be rendered to be in all respects as good as the service rendered to the manual subscribers.

The Railroad Commission further declares that The Pacific Telephone and Telegraph Company has filed herein a certified copy of relinquishment, dated February 14, 1917, by Riverside Home Telephone and Telegraph Company to the city of Riverside of the rights granted by the city of Riverside to H. M. Streeter and his assigns by Ordinance No. 193, passed on April 9, 1895, which rights were thereafter assigned

to Riverside Home Telephone and Telegraph Company, together with a certified copy of Resolution No. 419 of the mayor and the common council of the city of Riverside, adopted on February 20, 1917, accepting the surrender and relinquishment of said rights by Riverside Home Telephone and Telegraph Company.

The Railroad Commission further declares that The Pacific Telephone and Telegraph Company has filed with the Railroad Commission a petition asking permission to acquire the capital stock of Riverside Home Telephone and Telegraph Company, as provided in the first condition of the order of November 6, 1916, in the above-entitled proceeding and that on December 29, 1916, the Railroad Commission made and filed its opinion and order in said proceeding.

The Railroad Commission further declares that The Pacific Telephone and Telegraph Company has now complied with conditions numbers 1, 2 and 4 of said order of November 6, 1916.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4167.

IN THE MATTER OF THE APPLICATION OF THE SIERRA RAILWAY COMPANY OF CALIFORNIA FOR AUTHORIZATION TO PURCHASE THE PROPERTY OF THE SIERRA TELEGRAPH COMPANY, LOCATED IN THE COUNTIES OF STANISLAUS, TUOLUMNE AND CALAVERAS, AND OF THE SIERRA TELEGRAPH COMPANY, FOR AUTHORIZATION TO SELL ITS PROPERTY LOCATED IN THE COUNTIES OF STANISLAUS, TUOLUMNE AND CALAVERAS.

Application No. 2769.

Decided March 7, 1917.

Sierra Telegraph Company authorized to sell its system of telegraph lines paralleling the tracks of Sierra Railway Company to the latter-named company for the sum of \$2,500.00.

BY THE COMMISSION.

OPINION.

The Sierra Telegraph Company applies for authority to sell to Sierra Railway Company of California the line of telegraph constructed along the main line and branches of the railroad of the latter company in Stanislaus, Tuolumne and Calaveras counties. Both companies join in the application.

It appears from the application that the railway company has operated the telegraph line from the time of its construction under an agreement by which the railway company has paid all costs of operation, maintenance, renewals and taxes in return for the use of the line for

railroad business, the gross revenue from commercial business having been turned over without deduction to the telegraph company as rental of the line; that the original cost of the property is not known but its reproduction cost is stated in detail to be \$4,317.00 and the present sale price is stated to be \$2,500.00. Sierra Railway Company of California states that it expects to continue to operate the system and serve the public as it has done for a number of years and at the present schedule of rates now on file with the commission until otherwise ordered.

The estimate of reproduction cost attached to the application as an exhibit has been checked by the commission's engineers and found reasonable. It is probable that the property will be maintained if owned by the railway company in a condition equal to or better than its condition when owned by the telegraph company. There appears to be no objection to the transfer from the viewpoint of the public interest. A public hearing appears to be unnecessary.

ORDER.

Sierra Railway Company of California and Sierra Telegraph Company having joined in application to the commission for authority for the former to purchase and the latter to sell the line of telegraph extending along the main line and branches of the Sierra Railway of California located in Stanislaus, Tuolumne and Calaveras counties, and it appearing that the application is not objectionable from the viewpoint of the public interest and that a public hearing is not necessary,

It is hereby ordered by the Railroad Commission of the state of California that Sierra Telegraph Company be and it is hereby authorized to sell to Sierra Railway Company of California for the sum of \$2,500.00 cash the line of telegraph constructed along the line of railway of said Sierra Railway Company of California, including all of the poles, wires, instruments, equipment and property used in connection therewith. This authority is granted upon the following conditions:

(1) The authority hereby granted shall not be considered in any proceeding before the Railroad Commission or any court or other tribunal or public body as a finding of the value of said property for any purpose other than that of the present application.

(2) Sierra Railway Company of California shall continue in effect for service to the public the present schedule of rates on file with the commission.

(3) The authority hereby granted shall extend only to such transfer as may be made within sixty days from date hereof.

(4) Within ten days after instrument of transfer is executed and delivered, Sierra Railway Company of California shall report to the commission in writing the fact and date of the delivery of such instrument with a copy thereof.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4168.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER PRELIMINARY TO THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER A FRANCHISE TO BE SECURED FROM THE CITY OF MONTEREY PARK, LOS ANGELES COUNTY.

Application No. 2752.

Decided March 7, 1917.

Order made preliminary to the issuance of a certificate declaring that public convenience and necessity require the exercise of rights under a franchise to be hereinafter obtained permitting the construction and operation of a gas distributing system in the city of Monterey Park.

Hunsaker & Britt, and Le Roy M. Edwards by D. M. Hunsaker, for Applicant.

LOVELAND, *Commissioner.*

OPINION.

This is an application of Southern Counties Gas Company of California for an order preliminary to the issue of a certificate that public convenience and necessity will require the exercise of the rights and privileges to be secured under a franchise for the service of gas in the city of Monterey Park, Los Angeles County.

An application for the above-mentioned franchise has been filed with the board of trustees of the city of Monterey Park, but the franchise has not yet been granted.

The petitioner represents that this territory is not now being served by a utility of like character. The company further represents that it proposes, if its application is granted, to extend its pipe line through the city of Monterey Park and to serve the city of Monrovia and adjacent territory with natural gas. Monrovia is at present served with artificial gas by the Southern Counties Gas Company.

After a consideration of the evidence submitted by petitioner, I am of the opinion that its request is reasonable and may be granted, subject, however, to the terms of the following order: •

ORDER.

Southern Counties Gas Company of California having applied to this commission for an order preliminary to the issue of a certificate that

public convenience and necessity will require the exercise of the rights and privileges to be secured under a franchise for the service of gas in the city of Monterey Park, Los Angeles County, the Railroad Commission hereby declares that hereafter upon application of Southern Counties Gas Company of California it will issue a certificate that public convenience and necessity require the exercise by Southern Counties Gas Company of California of the rights and privileges contained in a franchise applied for from the city of Monterey Park, Los Angeles County, but not yet obtained, said certificate to be issued upon such terms and conditions as the commission may hereafter designate.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4169.

IN THE MATTER OF THE APPLICATION OF BALDWIN PARK DOMESTIC WATER COMPANY, S. M. WALKER, PROPRIETOR, FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN WATER PLANT AND SYSTEM TO BALDWIN PARK DOMESTIC WATER COMPANY, A CORPORATION.

Application No. 2538.

IN THE MATTER OF THE APPLICATION OF BALDWIN PARK DOMESTIC WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCKS AND BONDS, THE EXECUTION OF A TRUST DEED AND FOR PERMISSION TO PURCHASE AND ACQUIRE A CERTAIN WATER PLANT AND SYSTEM AND FRANCHISE.

Application No. 2539.

Decided March 7, 1917.

S. M. Walker authorized to transfer his water system in the unincorporated town of Baldwin Park to the Baldwin Park Water Company, which latter company is authorized to issue in exchange therefor \$35,000.00 par value of its capital stock and \$6,000.00 face value of its bonds, also to issue and sell \$30,000.00 par value of stock at not less than 90 and \$24,000.00 face value of bonds at not less than par, for additions and betterments thereto, provided, that none of the latter named securities shall be issued until proposed improvements have been submitted to and approved by the commission.

Hunsaker & Britt, and LeRoy M. Edwards, by D. M. Hunsaker, for Applicants.

EDGERTON, *Commissioner.*

OPINION.

In application No. 2583, Baldwin Park Domestic Water Company, S. M. Walker, proprietor, an unincorporated company, asks for author-

ity to sell its plant and system to a new corporation known as Baldwin Park Domestic Water Company for \$15,000.00 face value of bonds and \$60,000.00 face value of stock of the latter company.

In Application No. 2539, Baldwin Park Domestic Water Company, a corporation, applies for authority to purchase the properties above referred to and also asks for authority to issue stocks and bonds as follows:

\$15,000.00 face value of bonds at par.
 \$60,000.00 face value of stock at par.
 \$75,000.00 for properties of Baldwin Park Domestic Water Company, S. M. Walker, proprietor.
 \$15,000.00 face value of bonds at a price to be fixed by the commission.
 \$40,000.00 face value of stock at not less than 90 per cent of par.
 \$55,000.00 for additions and betterments.

Baldwin Park Domestic Water Company, a corporation, also asks for authority to execute a mortgage or deed of trust upon its properties securing an issue of \$30,000.00 face value of bonds.

Baldwin Park Domestic Water Company, S. M. Walker, proprietor, serves water for domestic, irrigation and commercial purposes in the unincorporated town of Baldwin Park, Los Angeles County. It is operating under a forty-year franchise granted by the board of supervisors of Los Angeles County on July 20, 1911. Its water system consists of a pumping plant, a storage tank, having a capacity of about 280,000 gallons, and about 70,000 feet of distributing mains. Water is obtained from a 16-inch well, 502 feet in depth. The system is entirely metered.

In connection with Application No. 2538, Baldwin Park Domestic Water Company, S. M. Walker, proprietor, has filed a complete schedule of debts which it is proposed shall be assumed by Baldwin Park Domestic Water Company, a corporation. These debts consist of accounts payable totaling \$6,903.38. The former company has also filed a statement of assets totaling \$188,054.02, of which \$150,000.00 is represented by water rights, and a valuation prepared by Mr. Jeff McElvaine, showing a total value of the properties as of July 1, 1916, of \$158,468.48. Mr. McElvaine has allowed \$120,000.00 for water rights.

Subsequent to the hearing a valuation of the water utility properties proposed to be transferred was made by James Armstrong, assistant engineer, for the commission. Mr. Armstrong estimates the actual cost of the properties as of December 15, 1916, plus an allowance of 10 per cent for overhead, to be approximately \$37,725.00. Mr. Armstrong has also estimated the company's earnings for 1917 as follows:

Revenue	-----	\$7,000 00
Expense	-----	4,500 00
Net revenue	-----	\$2,500 00

Mr. Armstrong estimates that the sum of \$600.00 should be allowed for depreciation annuity. Subtracting this amount from the company's net revenue, approximately \$1,900.00 would be available for bond interest. Interest on \$30,000.00 of bonds at 6 per cent amounts to \$1,800.00.

The showing made by applicant as to assets and earnings does not appear to warrant an issue of stocks and bonds in the amount asked for. I am of the opinion that the needs of Baldwin Park Domestic Water Company will be served if it is permitted to issue \$6,000.00 face value of bonds and \$35,000.00 par value of stock at 90 in exchange for the properties of Baldwin Park Domestic Water Company, S. M. Walker, proprietor, which properties it appears cost approximately \$37,500.00. The \$6,000.00 face value of bonds issued as part of the purchase price should be applied upon the outstanding indebtedness. When Baldwin Park Domestic Water Company, a corporation, has filed with this commission a detailed statement as to the additions and betterments which it proposes to construct, I am of the opinion that it may reasonably be allowed to issue \$24,000.00 face value of bonds, at par and \$30,000.00 par value of stock at 90.

This is not a type of enterprise which would appear to justify a large issue of bonds. A water property of this nature is best financed to a large extent through an issue of stock.

Applicant has submitted a copy of a proposed form of mortgage or deed of trust to Citizens Trust and Savings Bank of Los Angeles, providing for an issue of \$30,000.00 face value of 6 per cent twenty-year first mortgage bonds of the denomination of \$100.00 each, said bonds to be secured by a mortgage on all property now owned or hereafter acquired and to be callable at 103. A sinking fund is provided for amounting to 3 per cent per annum of the outstanding bonds.

Inasmuch as this deed of trust provides for the granting of the applications in substantially the same form as presented to the commission, it will be necessary for applicant to make certain changes in its deed of trust so that the same will conform with the terms of the order herein.

The authority herein granted will be made subject to the subsequent approval by the commission of applicant's proposed deed of trust.

Herewith a form of order:

ORDER.

Baldwin Park Domestic Water Company, S. M. Walker, proprietor, having applied to this commission for authority to transfer its water utility properties to Baldwin Park Domestic Water Company, a corporation, and the latter company having applied for authority to acquire said properties and to issue stocks and bonds as hereinbefore set forth; and a hearing having been held, and it appearing that the purposes for which the bonds and stock herein authorized to be issued are not

reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Baldwin Park Domestic Water Company, S. M. Walker, proprietor, be and it is hereby authorized to transfer to Baldwin Park Domestic Water Company, a corporation, the following described property :

A franchise from the county of Los Angeles, granted July 20, 1911, under Ordinance No. 273 (new series) ;

The northeast corner acre, square in shape, of lot two (2), tract 1917 as per map in Book 21, page 48, of Maps, Los Angeles County Records; and

Lots twenty-one (21) and twenty-two (22), Shultis Tract, as per map in Book 13, page 170, of Maps, Los Angeles County Records;

All other property that is necessary and needful for the operation of said public utility company, known and designated as the Baldwin Park Domestic Water Company, S. M. Walker, proprietor, including tanks, pumps, engines, motors, pipe, pipe lines, valves, gates, hydrants, connections, etc.

It is hereby further ordered that Baldwin Park Domestic Water Company, a corporation, be and it is hereby authorized to execute a mortgage or deed of trust upon its properties in the total sum of \$30,000.00 and to issue stocks and bonds as follows :

\$35,000.00 par value of stock to be issued in part payment for water utility properties of Baldwin Park Domestic Water Company, S. M. Walker, proprietor.

\$30,000.00 par value of stock, the proceeds to be used for additions and betterments.

\$6,000.00 face value of bonds to be issued in part payment for water utility properties of Baldwin Park Domestic Water Company, S. M. Walker, proprietor, and to be used in extinguishing outstanding indebtedness on said properties.

\$24,000.00 face value of bonds, the proceeds to be used for additions and betterments.

The authority herein granted is granted upon the following conditions and not otherwise :

1. The stocks and bonds herein authorized to be issued for additions and betterments shall only be issued after Baldwin Park Domestic Water Company, a corporation, shall have filed with this commission a statement in detail of the additions and betterments which it proposes to construct and shall have secured from this commission a supplemental order approving the same.

2. The \$35,000.00 par value of stock herein authorized to be issued in part payment for the water utility properties of Baldwin Park Domestic Water Company, S. M. Walker, proprietor, shall only be issued in exchange for a good and sufficient title to said properties and a copy of

the said deed shall be filed with this commission within thirty days after the execution thereof.

3. The stock herein authorized to be sold shall be sold so as to net Baldwin Park Domestic Water Company, a corporation, not less than 90 per cent of the par value thereof.

4. The bonds herein authorized to be sold shall be sold so as to net Baldwin Park Domestic Water Company, a corporation, not less than the par value thereof plus accrued interest.

5. The bonds herein authorized to be issued shall not be issued until Baldwin Park Domestic Water Company shall have submitted to this commission for its approval a revised copy of its mortgage or deed of trust and secured from this commission a supplemental order approving the same.

6. The stocks and bonds herein authorized to be issued shall not be binding upon this commission or any other body as a measure of the value of the water properties which Baldwin Park Domestic Water Company, a corporation, is herein authorized to acquire.

7. Baldwin Park Domestic Water Company, a corporation, shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the stocks and bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stocks and bonds, during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

8. Within sixty days from the date of this order Baldwin Park Domestic Water Company, a corporation, shall file with the Railroad Commission a stipulation, duly authorized by the board of directors, declaring that Baldwin Park Domestic Water Company, a corporation, will never claim before the Railroad Commission or any court or other public body a value for the franchise acquired from Baldwin Park Domestic Water Company, S. M. Walker, proprietor, in excess of the actual cost to Baldwin Park Domestic Water Company, S. M. Walker, proprietor, of acquiring said franchise, which cost shall be stated in the stipulation, and shall receive from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

9. The authority herein given is conditioned upon the payment of the fee prescribed in the Public Utilities Act as amended.

10. The authority herein given to issue stock and bonds and to transfer property shall apply only to such stock and bonds as shall have been

issued and such property as shall have been transferred on or before October 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4170.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 287, GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2755.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 288, GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2756.

IN THE MATTER OF THE APPLICATION OF A. S. CARMAN FOR THE APPROVAL OF WHARF FRANCHISE No. 289, GRANTED BY THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FEBRUARY 5, 1917.

Application No. 2757.

Decided March 7, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicant having filed stipulation, as required by the order of the Railroad Commission heretofore made on February 20, 1917, to the effect that he, his successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for the wharf franchises described therein in excess of the respective costs thereof, which costs are respectively stipulated to have been the sums of \$127.73 for franchise No. 287, \$127.23 for franchise No. 288, and \$118.98 for franchise No. 289, which stipulation is in form satisfactory to the commission.

It is hereby ordered by the Railroad Commission of the state of California that the above applications of A. S. Carman are hereby granted and the authority granted by the board of supervisors of Contra Costa County by said franchises Nos. 287, 288 and 289 is hereby approved.

Decision No. 4150, of March 3, 1917, and the supplemental order therein contained are hereby set aside.

Dated at San Francisco, California, this 7th day of March, 1917.

DECISION No. 4171.

IN THE MATTER OF THE APPLICATION OF CITY WATER COMPANY
OF OCEAN PARK FOR AN ORDER AUTHORIZING THE ISSUE OF
BONDS.

Application No. 2712.

Decided March 8, 1917.

Supplemental order approving applicant's form of mortgage and modifying former order with reference to issue of \$2,000.00 face value of new bonds in exchange for a like face value of old bonds.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this commission in Decision No. 4108, dated February 15, 1917, granted City Water Company of Ocean Park authority to mortgage its water plant and system as security for an issue of \$50,000.00 face value of first mortgage 6 per cent gold bonds upon the condition that the form of said mortgage or deed of trust should be approved by this commission in a supplemental order; and

Whereas City Water Company of Ocean Park has filed with this commission a proposed form of mortgage or deed of trust mortgaging all property now owned or hereafter acquired to Title Insurance and Trust Company of Los Angeles as security for a total authorized issue of \$50,000.00 face value of first mortgage 6 per cent gold bonds to be dated January 1, 1917, and to mature serially as follows:

Bonds numbered 1 to 5, inclusive, on January 1, 1921.
Bonds numbered 6 to 10, inclusive, on January 1, 1922.
Bonds numbered 11 to 15, inclusive, on January 1, 1923.
Bonds numbered 16 to 20, inclusive, on January 1, 1924.
Bonds numbered 21 to 25, inclusive, on January 1, 1925.
Bonds numbered 26 to 30, inclusive, on January 1, 1926.
Bonds numbered 31 to 35, inclusive, on January 1, 1927.
Bonds numbered 36 to 40, inclusive, on January 1, 1928.
Bonds numbered 41 to 45, inclusive, on January 1, 1929.
Bonds numbered 46 to 50, inclusive, on January 1, 1930.

Said bonds to be redeemable in whole or in part on any interest date after January 1, 1919, at 105 and accrued interest, and said trust indenture further providing that the holders of a majority in amount of the outstanding bonds may control the actions of the trustee upon the happening of any events of default as the same are defined in said indenture; and

Whereas said Decision No. 4108, dated February 15, 1917, further provided that subject to certain conditions applicant might issue at the present time \$30,000.00 face value of said first mortgage 6 per cent gold bonds, of which amount \$2,000.00 face value should be issued in exchange for an equal amount of old bonds still outstanding; and

Whereas applicant has now represented to this commission that said \$2,000.00 of old bonds have been surrendered and canceled under an agreement with the owner thereof that \$2,000.00 face value of the new bonds will thereafter be delivered in lieu thereof;

And it appearing to this commission that the mortgage or deed of trust submitted by applicant is in proper form and may be approved and that this commission's Decision No. 4108, dated February 15, 1917, may be amended to allow \$2,000.00 face value of applicant's first mortgage 6 per cent gold bonds to be issued in lieu of \$2,000.00 of old bonds surrendered and canceled,

It is hereby ordered that the mortgage or deed of trust submitted by City Water Company of Ocean Park and filed in this proceeding on February 24, 1917, as Exhibit No. "5," be and the same is hereby approved, upon the condition, however, that the approval herein given of said mortgage is for the purposes of this proceeding only and is an approval only in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

It is hereby further ordered that this commission's Decision No. 4108, dated February 15, 1917, be and it is hereby amended to allow City Water Company of Ocean Park to issue \$2,000.00 face value of its first mortgage 6 per cent gold bonds to Marion E. Bridges in lieu of \$2,000.00 face value of its old bonds heretofore owned by said Marion E. Bridges, upon the condition, however, that said old bonds shall first have been surrendered and canceled.

Except as herein modified, this commission's Decision No. 4108, dated February 15, 1917, shall remain in full force and effect.

Dated at San Francisco, California, this 8th day of March, 1917.

DECISION No. 4172.

CHARLES KAPPLER

vs.

ETNA DEVELOPMENT COMPANY.

Case No. 965.

Decided March 8, 1917.

Complaint petitioning the commission to compel defendant company to furnish complainant with water for irrigation purposes,

Held, Defendant required to deliver to complainant during the period November 1st to July 15th of each year, such surplus water as it may have over and above a stated amount, at the rate of 10 cents per miner's inch per twenty-four hours, and during the period July 15th to November 1st such water as it may have that is not required for the beneficial use of interveners and defendant.

*B. K. Collier, Horace T. Jous, Benjamin Davidson, for Complainant.
Taylor & Tebbe, for Defendant.*

C. J. Luttrell, of Luttrell & Ley, for Intervenors.

BY THE COMMISSION.

OPINION.

The complaint in this case alleges, among other matters, that complainant has been since 1909, and now is, the owner of certain agricultural lands situated about one mile west of the town of Etna, Siskiyou County, and that the defendant, a California corporation, is, and has been for a number of years past, engaged in furnishing the inhabitants of the town of Etna and the vicinity with water for domestic and irrigation purposes; that a portion of complainant's lands, situated on the line and within the flow of defendant's ditch, and comprising about thirty acres, is agricultural and planted to fruit trees, vines, alfalfa and other products requiring irrigation.

The complainant further alleges that from 1909 to 1914, inclusive, defendant has furnished water from its said ditch to plaintiff for the irrigation of said land, but that during the years 1915 and 1916, defendant refused to deliver to complainant any water whatsoever for the irrigation of said lands, although complainant repeatedly demanded such service and was at all times willing to pay a reasonable amount for the same.

The defendant in its answer, in addition to denying a number of the allegations of the complaint, alleges that it has allowed complainant to have such of its surplus water as it could spare for the purpose of irrigating his agricultural land, upon the distinct understanding that complainant could have merely the surplus water of the defendant, because the needs of the town of Etna and its inhabitants for fire protection, domestic use, and for irrigating lawns and gardens required practically all of the water. Defendant also alleges that it offered complainant such surplus water for the price of \$120.00 per year, to be paid in advance, and that complainant has refused to take such water under this condition.

The answer further alleges that defendant's water system consists of a ditch which taps Etna Creek several miles from the town, conducting the water to a point about three-quarters of a mile from Etna, where, by means of a penstock, the water is discharged into a pipe line through which said water is distributed in said town; and that for use in case of fire defendant is obliged to provide for considerable

increase in the amount of water taken into said pipe line, and in order so to provide, defendant carries sufficient water in the ditch to fill said pipe for ordinary use and to have an overflow at the point where the ditch water is taken into said pipe so that automatically a draft of water is supplied for use in case of fire without any delay, as the overflow is taken to fill the pipe; that to supply complainant with irrigation water, such water must be taken from defendant's ditch at a higher elevation and about three quarters of a mile above said penstock; that should defendant be obliged to furnish complainant water for the irrigation of his said thirty acres of agricultural land, defendant would not have the proper amount of water as overflow at its penstock, especially during the months of July, August, September and October; that should defendant be required to furnish water at all times sufficient to irrigate said thirty acres of land, the town of Etna would be deprived of water when necessary for use in case of fire, and in this regard the answer alleges that it would take at least two hours' time to obtain sufficient water in case of fire, for the reason that defendant would be obliged to send a man up the ditch, which runs along a steep hillside to the diverting point of such water, to close the gate, after which it would take an hour for such water, restored to defendant's ditch, to reach the town of Etna.

Public hearings were held in Etna on October 6, 1916, and in Yreka on February 1 and 2, 1917, before Examiner Bancroft.

At the Etna hearing it developed that there were certain users of water who might have claims adverse to those of both the complainant and the defendant, and accordingly, on January 16, 1917, and prior to the second hearing, the commission duly made an order addressed to G. A. Richman or G. A. Reichman, of Fort Jones, Siskiyou County, and to Fred G. Smith, John Wagner, Frank Wagner, William Wagner, Ed Hughes, Thomas P. Dowling, A. E. Hughes, Anna Jenner, administratrix of the Estate of Charles Jenner, deceased, and Anna Jenner, administratrix of the Estate of Cord Sackman, deceased, of Etna, Siskiyou County, directing all of said persons to appear before the Railroad Commission on February 1st, at Yreka, to show cause why the commission should not accord to the complainant the relief prayed for in the complaint in the above-entitled action.

Copies of this order to show cause, together with copies of the complaint, were duly served by mail upon all of the persons above named, and the following appeared or were represented by their attorney at the second hearing: John A. Wagner, William Wagner, Frank Wagner, Fred G. Smith, A. E. Hughes, G. A. Reichman, Anna Jenner, as administratrix of the Estate of Cord Sackman, deceased, and Anna Jenner in behalf of herself, and as trustee of Charles E. Jenner, Anita Jenner and George K. Jenner.

A brief description of defendant's plant is contained in the opinion of this commission upon Application No. 1868 (Decision No. 2789), Vol. 8, Opinion and Orders of the Railroad Commission of California, page 170.

From the evidence introduced we find that under present conditions, in order to give the inhabitants of the town of Etna proper fire protection, sufficient water should at all normal times be retained in the supply ditch, so that the water overflowing at the wasteway near the penstock would be not less than two inches in depth by 52 inches in width, and we believe it would be practicable to install a gate in defendant's ditch at what is commonly known as Marble Gulch (some three-quarters of a mile above the penstock) in such a manner as to allow complainant the use of defendant's surplus water without reducing the flow in the ditch below the level suggested.

A more difficult point of determination, however, is how much water complainant can use in this manner without interfering with the rights of the interveners. Without endeavoring to determine just what these rights may be, it is sufficient for the purposes of this case to state that, while complainant's and defendant's uses date back approximately eight and twenty years, respectively, the uncontradicted testimony of several of the interveners was to the effect that for the last fifty or sixty years practically all the water available from Etna Creek during the drier periods of the irrigating seasons had been used by them or their predecessors in interest, some of this water having been used for the operation of a flour mill known as the Union Mill (formerly owned by Charles Jenner, deceased), and the rest for irrigation upon four or five farms now belonging to the respective interveners.

The mill is run by a water wheel requiring for its operation approximately nine cubic feet per second, the water passing through two 3½-inch nozzles with a head of approximately 53 feet. The water used in operating the mill is not available for the irrigation of any of the farms of the interveners, and, according to the testimony, the mill has to be either partially or entirely shut down during the period of greatest water shortage practically every season. In addition to the water used in the mill, the total amount of land irrigated by the interveners is, on the average, somewhere in the neighborhood of sixty to ninety acres.

The interveners have never made a definite segregation of their various water rights, it appearing from the evidence that each has used what he considered a fair amount, taking all he wanted during the early part of the season and reducing the amount he used as the supply grew less. The evidence further shows, however, that there has always been more water in Etna Creek than the defendant and all the interveners could use until about the 15th of July, and, accord-

ingly, we feel that interveners' rights will not in any way be infringed if defendant is required to furnish complainant water up to July 15th of each season, and later, when feasible, upon the terms and conditions set forth in the following order.

ORDER.

Public hearings having been held in the above-entitled case, at which evidence was introduced by both parties and by the interveners, and the matter having been duly submitted and being now ready for decision,

It is hereby ordered that defendant shall, within sixty days from the date hereof, install a gate or other device at Marble Gulch in such a manner that it will be able to deliver to complainant surplus water whenever there is more than enough water in the ditch to allow an overflow at the wasteway near the penstock of two inches in depth by 52 inches in width, and defendant shall thereafter deliver to complainant, at a rate of not more than ten (10) cents per miner's inch per 24 hours, such excess of water, over and above the reserve flowing through the wasteway as hereinbefore provided, as complainant may demand for the proper irrigation of his land above referred to at all times excepting between July 15th and November 1st of each year.

It is hereby further ordered that between July 15th and November 1st defendant shall deliver, subject to the conditions and at the rate above set forth, such surplus water, upon demand of the complainant, as may not be required for beneficial use by any of the interveners, in seasons when there is more water available than defendant and interveners require.

Dated at San Francisco, California, this 8th day of March, 1917.

DECISION No. 4173.

THE SOUTHERN SIERRAS POWER COMPANY

vs.

THE CITY OF LOS ANGELES.

Case No. 1052.

Decided March 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above-entitled proceeding having made written request that the case be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 9th day of March, 1917.

43-30639

DECISION No. 4174.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT.
PACIFIC FREIGHT TARIFF BUREAU FOR AUTHORITY TO MAKE
CHARGE FOR SWITCHING AFTER INITIAL PLACING OF CAR
FOR UNLOADING.

Application No. 2314.

Decided March 9, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above-entitled matter having made written request that the proceeding be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 9th day of March, 1917.

Decisions Nos. 4175, 4176, 4177, grade crossings; not printed. See end of volume.

DECISION No. 4178.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC
RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE PUR-
CHASE OF 1,201,000 SHARES OF THE CAPITAL STOCK OF TIDE-
WATER SOUTHERN RAILWAY COMPANY.

Application No. 2741.

Decided March 12, 1917.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas Condition No. 1 of the order found in Decision No. 4143, dated March 4, 1917, reads:

“This order shall become effective only after The Western Pacific Railroad Company shall have filed a copy of a traffic agreement to be binding between it and said Tidewater Southern Railway Company, in the event that The Western Pacific Railroad Company acquired all or any part of 1,201,000 shares of the capital stock of Tidewater Southern Railway Company and shall have received an order from this commission approving such traffic agreement,” and

Whereas pursuant to the aforementioned condition of this commission's decision, The Western Pacific Railroad Company, on March 10, 1917, filed with this commission for approval, its existing traffic agreement with the Tidewater Southern Railway Company; and

Good cause appearing,

It is hereby ordered that The Western Pacific Railroad Company and Tidewater Southern Railway Company may continue to operate under the traffic agreement filed with this commission on March 10, 1917, pursuant to Condition No. 1 of this commission's Decision No. 4143, dated March 4, 1917, or under such other traffic agreement as may hereafter be approved by the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of March, 1917.

DECISION No. 4179.

IN THE MATTER OF THE APPLICATION OF JOSEPH A. RIGHETTI TO SELL AN UNDIVIDED ONE-HALF INTEREST IN RIGHETTI TELEPHONE COMPANY TO FLORINO DALIDIO, AND OF THE LATTER TO PURCHASE THE SAME; AND OF TOGNINI & GHEZZI TELEPHONE COMPANY TO OPERATE THE RIGHETTI TELEPHONE COMPANY, ALL IN AND IN THE VICINITY OF CAYUCOS, SAN LUIS OBISPO COUNTY, CALIFORNIA.

Application No. 2744.

Decided March 12, 1917.

Righetti authorized to transfer a certain telephone system serving the town of Cayucos and vicinity to one Dalidio, which latter named individual is authorized to transfer such system to a copartnership to consist of Messrs. Dalidio, Tognini and Ghezzi, provided that the rates at present in effect shall remain so until further order of the commission.

Chas. Ghezzi, for Applicants.

BY THE COMMISSION.

OPINION.

A public hearing was conducted by Myron Westover, examiner, at Cayucos, on above application to transfer a telephone system consisting of about 150 miles of wire and serving about 87 subscribers in and about the towns of Cayucos and Morro, San Luis Obispo County.

The line was constructed in 1908 and consists of Nos. 12 and 14 galvanized iron wire strung largely on stakes mounted on fence posts, and serving principally a farming and stock growing community.

The partnership heretofore existing between Jos. A. Righetti and Florino Dalidio, who owned the line, has been dissolved, the former receiving as his share in the enterprise the outstanding accounts of about \$600.00, of which \$500.00 or more is reported to be collectible.

Mr. Dalidio received as his share in the enterprise the physical property of the telephone system. No valuation of the property was submitted to or fixed by the commission and we do not know its value. This property he wishes to transfer to a new partnership and consolidate it with the system of Tognini & Ghezzi, the whole to be operated under the name of Tognini & Ghezzi Telephone Company,

Messrs. Tognini and Ghezzi, who conduct a general store at Cayucos, now own and operate what is known as the Tognini & Ghezzi Telephone System, serving about 45 subscribers.

Of the consolidated system it is proposed that Mr. Dalidio shall own a half interest in return for the Righetti system, and that Messrs. Tognini and Ghezzi shall each own a quarter interest in return for the Tognini & Ghezzi lines.

The rate on the Righetti system has been \$1.00 per month for one instrument, 75 cents per month for each additional instrument, there being five instruments at this rate, and 50 cents per month where the subscriber owns the instrument, which is the case with seven subscribers. The rate on the Tognini & Ghezzi lines has been \$1.00 per month, except for two subscribers who furnished their own instruments and lines, and formerly received rural service from The Pacific Telephone and Telegraph Company at \$3.00 per year each.

Separate application has been made to the commission for an order adjusting rates. Until such order has been made, the present rates to each individual patron should be continued in force.

ORDER.

Jos. A. Righetti, Florino Dalidio, A. B. Tognini and Charles Ghezzi having applied to the Railroad Commission for an order authorizing the first to sell to the second his undivided half interest in the telephone system operated under the name of Righetti Telephone Company and authorizing said Dalidio to transfer to and consolidate with Messrs. Tognini & Ghezzi, title to said Righetti telephone lines, said consolidated system to be owned and operated by Messrs. Dalidio, Tognini and Ghezzi, and a public hearing having been held on said application,

It is hereby ordered by the Railroad Commission of the State of California that said Jos. A. Righetti is hereby authorized to hereafter convey and transfer to Florino Dalidio all his interest in the telephone line and system heretofore owned by said parties as copartners under the name of Righetti Telephone System; and said Florino Dalidio is hereby authorized and empowered to transfer and convey title to said line and system to a new partnership to consist of A. B. Tognini, Chas. Ghezzi and himself, the said system to be operated in connection with the telephone line and system heretofore operated by Messrs. Tognini and Ghezzi and known as the Tognini & Ghezzi Telephone System.

The authority hereby granted is upon the following conditions:

1. The authority hereby granted shall not be considered before this commission or any other tribunal as determining the value of the said

property for the purpose of fixing rates or for any other purpose than that of the present application.

2. Until the further order of the commission the present rates to each individual patron and service equal to or better than the present service shall be maintained.

3. The authority hereby granted shall apply only to such property as shall have been hereafter conveyed on or before thirty days from date hereof.

4. Within ten days after receiving conveyance of said property, Tognini & Ghezzi shall file with the Railroad Commission a copy of said conveyance.

Dated at San Francisco, California, this 12th day of March, 1917.

DECISION No. 4180.

R. IL KNOX ET AL.

vs.

SAN JOSE RAILROADS ET AL.

Case No. 409.

Decided March 15, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainants having on March 14, 1917, notified the commission in writing that the complaint herein may be dismissed,

It is hereby ordered that the complaint herein be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 15th day of March, 1917.

DECISION No. 4181.

CLARA E. JONES

vs.

ROBERT A. WALTON.

Case No. 1037.

Decided March 15, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

The complaint herein having been satisfied,

It is hereby ordered that the complaint herein be and the same hereby is dismissed.

Dated at San Francisco, California, this 15th day of March, 1917.

DECISION No. 4182.

IN THE MATTER OF THE APPLICATION OF FARMERS TRANSPORTATION COMPANY, SACRAMENTO TRANSPORTATION COMPANY AND SAN FRANCISCO AND SACRAMENTO NAVIGATION COMPANY FOR APPROVAL OF AGREEMENT.

Application No. 2778.

Decided March 15, 1917.

Order approving agreement entered into between certain steamboat companies operating boats between San Francisco and Sacramento River points whereby boats shall be run by one operating company upon the same schedule as is now maintained by the several companies, thereby avoiding duplications in sailing dates and effecting a consequent saving in operating expenses.

Sanborn & Rochl. for Applicants.

G. J. Bradley, for Sacramento Shippers.

LOVEAND and DEVLIN, *Commissioners.*

OPINION.

This is a joint application by Farmers' Transportation Company, Sacramento Transportation Company and San Francisco and Sacramento Navigation Company for approval by the Railroad Commission of an agreement entered into by applicants on February 24, 1917, whereby, if authorized, Farmers' Transportation Company and Sacramento Transportation Company will discontinue and withdraw from the service now given by said carriers between the cities of San Francisco and Sacramento, and the San Francisco and Sacramento Navigation Company will simultaneously enter upon and continue said service during the life of the agreement. A copy of the agreement was filed with the application and marked Exhibit A, as was also a printer's proof of the proposed tariff, marked Exhibit B, showing rates and regulations under which the San Francisco and Sacramento Navigation Company will operate.

It is set forth in the application that operating expenses of the Farmers' Transportation Company and the Sacramento Transportation Company have so increased in recent years as to make rigid economies imperative, and this fact forms the basis of the agreement accompanying the application. Under the plan proposed the San Francisco and Sacramento Navigation Company will establish the lowest scale of rates now in effect by either of the operating companies and no curtailment of service with reference to sailing dates will

result; that is to say, a vessel or vessels will sail from San Francisco on Tuesday, Wednesday and Saturday of each week and make all way landings as at present without impairment of service to the public, the sole object of the agreement being an avoidance of duplications and consequent unnecessary expense.

In order to concentrate their facilities and effect the proposed economies, the application recites that certain vessels of each of the operating companies will be leased to the San Francisco and Sacramento Navigation Company, as per the terms of the agreement. The agreement itself provides that each of the lessors shall pay all operating and other expenses incident to the operation of the vessels leased and shall receive as rental the gross earnings of such vessels; also that the agreement shall remain in effect for a period of thirty days after approval by the Railroad Commission, "and thereafter until canceled by five (5) days' notice given by any of the parties hereto to the others."

According to the uncontroverted testimony of witnesses for the applicants, each of the operating companies has, with rare variation, experienced a steadily decreasing revenue since 1912, due in part to shrinkage in cargo, but very largely to increased costs of labor, material and supplies, which costs, under the present system of operating, are further increased by duplication of equipment and service. The sworn statements of these witnesses showed, in the case of the Sacramento Transportation Company, that gross revenues covering operations between San Francisco and Sacramento had decreased from \$121,765.40 in 1912 to \$66,828.55 in 1916 and that no dividends had been declared for twelve years; that while the Farmers' Transportation Company did not fare so badly in the matter of gross revenue, its annual expenses, with a single exception (due to abnormal shipments of foreign rice in 1914) were sufficient to bring about an operating deficit.

Although the commercial bodies of San Francisco, Sacramento, Oakland and Stockton were notified of the hearing under this application, only Sacramento was represented, and no protests were registered.

We believe that the purposes sought under this application, as indicated by the terms of the agreement, are worthy and should have the effect of making it possible to continue the service between San Francisco and Sacramento.

No change whatsoever has been requested in the service or rates applicable over the routes of the parties to the application between points on the present route north of the city of Sacramento.

In view of the foregoing facts and statements, it is our opinion that the public service now rendered by Farmers' Transportation Company and Sacramento Transportation Company between the cities of San Francisco and Sacramento will be improved by placing in effect the agreement accompanying the application and marked Exhibit A, and we hereby recommend that the application be granted, subject to the stipulation which is made a part of the order.

The commission reserves the right to order the termination of the agreement should public convenience and necessity impel such action.

ORDER.

Farmers' Transportation Company, Sacramento Transportation Company and San Francisco and Sacramento Navigation Company having applied to the Railroad Commission for an order authorizing the execution of an agreement affecting the operation of certain steamers and barges belonging to and now being operated by Farmers' Transportation Company and Sacramento Transportation Company, respectively, between the cities of San Francisco and Sacramento, a copy of which agreement is attached to the petition herein and marked Exhibit A, and a public hearing having been held on said application and no one appearing in opposition thereto,

It is hereby ordered that said application be and the same is hereby granted upon the following conditions, and not otherwise:

This order shall not become effective until applicants shall have filed with this commission, subject to its approval, a stipulation, duly authorized by their respective board of directors, undertaking, on behalf of each of the applicants, in the event of abrogation of the agreement hereby authorized, by any of the parties hereto, or by order of the Railroad Commission, to resume immediately its original service and reinstall its rates to a basis not higher than rates now in effect by the respective operating companies.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 15th day of March, 1917.

DECISION No. 4183.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE CREATION OF A TEN-YEAR SIX PER CENT NOTE INDEBTEDNESS. THE SECURING OF THE SAME BY TRUST INDENTURE AND THE ISSUANCE OF SAID NOTES OF THE PAR VALUE OF ONE MILLION FIVE HUNDRED SIXTY-FOUR THOUSAND DOLLARS.

Application No. 2711.

Decided March 16, 1917.

Applicant authorized to execute a trust agreement securing an issue of \$5,000,000.00 ten-year 6 per cent notes and issue thereunder \$1,564,000.00 face value to be sold at not less than 93, proceeds to be used partly to refund outstanding notes of the face value of \$1,026,500.00, to reimburse treasury for capital expenditures made in the sum of \$112,380.00, the balance of \$315,640.00 to be used for additions and betterments to plant as provided for under supplemental orders.

The amount of premiums necessary to retire notes of a public utility can not be capitalized. The issuance of such portion of an amount of securities which it is proposed to use for such purposes will not be authorized by the commission. An unamortized discount on short term notes which will mature within a period of several months can not be written off during a term of approximately twenty-four years. Applicant required to write off such item during the current year.

Allen L. Chickering of Chickering & Gregory, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by Western States Gas and Electric Company for authority to execute a trust agreement to Guaranty Trust Company of New York covering the issue of \$5,000,000.00 face value of 10-year 6 per cent gold notes, and for authority to issue \$1,564,000.00 of said notes at not less than 92 per cent of their face value.

A public hearing was held in San Francisco, January 30, 1917, before Examiner Baneroft.

The net yield to applicant from the sale of \$1,564,000.00 face value of notes at 92 per cent would be \$1,438,880.00. Applicant hopes to be able to realize slightly more than 92 per cent upon said notes and it desires to use the proceeds thereof as follows:

To pay principal of its three-year notes falling due October 1, 1917	\$621,500 00
Premium for retiring said notes before maturity	3,107 50
To refund 15 short-term notes set forth in "Exhibit No. 1," annexed to the application	206,000 00
To pay amount due Standard Gas and Electric Company	93,601 36
For purchase price and improvements to property of Placerville Gold Mining Company	215,000 00
To pay for estimated improvements to system to be made during the year ending November 30, 1917	300,000 00
Total	\$1,439,208 86

The \$621,500.00 of 3-year 6 per cent notes were issued under authority of this commission. The agreement under which they were issued provides that after October 1, 1916, the notes may be redeemed at 100½ per cent. These notes have, by virtue of this agreement, been called for redemption on April 1, 1917. Of these notes \$280,000.00 issued November, 1914, at 92½ per cent will have cost the company with the redemption premium the equivalent of 9.5 per cent interest per annum; \$308,500.00 issued from December, 1914, to May, 1915, at an average selling price of 93.15, will have cost the equivalent of 10 per cent, while the remaining \$33,000.00 of said notes, issued in April, 1916, at 94.75 per cent, will have cost the company the equivalent of 11.8 per cent, making the average cost to the company for the money obtained upon this entire issue 9.81 per cent per annum, in addition to the expenses connected with the issue of the notes.

Of the \$206,000.00 of short term notes above referred to, over half have been paid since the filing of the application in the above-entitled matter. New short term notes have been issued, however, for the purchase of, and improvements to, the property formerly belonging to Placerville Gold Mining Company, and to pay a portion of the amount due Standard Gas and Electric Company. As a result, applicant's short term notes now outstanding total \$405,000.00, all of which applicant desires to discharge out of the proposed note issue. Applicant also desires to reimburse its treasury for its payment of the aforementioned short term notes and for its payments on account of the amount formerly due Standard Gas and Electric Company.

As to the proposed application of \$3,107.50 to retiring the \$621,500.00 of 3-year notes, such an expenditure obviously should not be charged to capital account, and we can not authorize the use of any portion of the proposed note issue for that purpose.

The proposed trust agreement which applicant desires to execute to Guaranty Trust Company of New York, covering the issue of the \$5,000,000.00 face value of 6 per cent notes, above referred to, provides among other matters that the notes shall be dated February 1, 1917, and shall mature February 1, 1927, the issue to be represented by coupon notes of denominations of \$100.00, \$500.00 and \$1,000.00, and registered notes of denominations of \$1,000.00 or multiples thereof, interest to be payable semiannually on August 1 and February 1; \$1,564,000.00 face value to be issued in the immediate future, and \$3,436,000.00 to be issued thereafter, provided that the earnings of the company, after deducting operating expenses and interest on bonded indebtedness, is equal to three times the interest on the outstanding 10-year 6 per cent notes, plus the interest on notes to be issued, plus interest on floating indebtedness; the notes to be redeemable prior to February 1, 1921, at

102; between February 1, 1921, and February 1, 1925, at 101; and after February 1, 1925, at par, the holders of a majority in amount of bonds outstanding to control the procedure in case of default.

This agreement constitutes no lien upon the property of the company. Section 5 of article 3 of the agreement provides that Western States Gas and Electric Company will not place an additional mortgage or other encumbrance upon any of its property, real, personal or mixed, unless and until it shall by mortgage or deed of trust secure the carrying out of the agreement and the payment of the principal and interest of the notes issued thereunder, equally and ratably with the bonds, notes or other obligations secured by such additional mortgage or deed of trust. It is further provided that nothing in this section shall be construed to prevent the company from (1) acquiring properties subject to a lien, provided that the fair and reasonable value of property is in excess of the lien, or (2) issuing or renewing additional underlying bonds, or (3) giving pledges and securities for temporary loans in the usual course of business.

The section further provides that "in case of a breach of this covenant, in addition to any other penalty herein provided for such breach, the company hereby creates a lien and charge in favor of every note issued hereunder equal to the lien in favor of any other bonds, notes or other obligations secured by any mortgage or pledge not herein permitted. To make this covenant and penalty fully effectual, the company hereby includes under, and secures by any mortgage, pledge or deed of trust hereafter made or executed by the company, not herein permitted, any and all notes issued hereunder then or at any time thereafter outstanding, with the same force and effect as though each and every such note was specifically named and included in any such future mortgage, pledge or deed of trust, equally and ratably with any bonds, notes or other obligations, issued and secured by such future mortgage, pledge or deed of trust."

Section 7 of article 3 provides that the company will not sell or lease its plant until the purchaser or lessee assumes the payments of the notes issued under the agreement.

The agreement does not provide for a sinking fund nor does it obligate applicant to retire any of the notes before their maturity.

Applicant has reported its revenues and expenses for the calendar years 1913 to 1916, inclusive, as follows:

Item	1916	1915	1914	1913
Electric department:				
Operating revenues -----	\$984,299 53	\$945,100 44	\$897,323 04	\$880,652 77
Operating expenses -----	509,702 48	500,054 74	490,250 16	493,142 29
Net operating revenues ----	\$474,597 05	\$445,045 70	\$407,072 88	\$387,510 48
Gas department:				
Operating revenues -----	\$255,038 15	\$238,733 59	\$220,544 17	\$204,994 45
Operating expenses -----	122,359 31	111,413 75	103,788 70	103,740 64
Net operating revenues ----	\$132,678 84	\$127,319 84	\$116,755 47	\$101,253 81
Total net operating revenues	\$607,275 89	\$572,365 54	\$523,828 35	\$488,764 29
Deductions:				
Interest accrued on funded debt -----	\$285,239 09	\$276,877 90	\$238,303 74	\$211,627 90
Other interest -----	7,013 55	3,706 86	37,296 37	47,521 66
Uncollectible bills -----	5,537 87			
Amortization of debt, discount and expenses -----	12,465 86	6,690 35	3,925 70	
Total deductions -----	\$310,256 37	\$287,275 11	\$279,525 81	\$259,149 56
Balance carried to corporate surplus account	\$297,019 52	\$285,090 43	\$244,302 54	\$229,614 73

The operating expenses as shown in the above statement do not include any allowances for depreciation. The amount of depreciation annually charged by applicant on account of depreciation, as well as the dividends paid, are shown by the following table:

Item	1916	1915	1914	1913
Surplus beginning of year ----	\$144,739 89	\$127,309 10	\$106,473 56	\$114,917 25
Additions for year:				
Profit for year from income account -----	297,019 52	285,090 43	244,302 54	229,614 73
Miscellaneous additions to surplus -----	3,150 00	1,385 66		
Total surplus plus additions -----	\$444,909 41	\$413,785 19	\$350,776 10	\$344,531 98
Deductions for year:				
Depreciation -----	\$60,000 00	\$60,000 00	\$60,000 00	\$60,000 00
Dividends paid -----	223,478 41	179,045 30	148,750 00	148,750 00
Other deductions -----	21,825 60		14,717 00	29,308 42
Total deductions -----	\$305,304 01	\$269,045 30	\$223,467 00	\$238,058 42
Surplus end of year ----	\$139,605 40	\$144,739 89	\$127,309 10	\$106,473 56

Applicant reports its assets and liabilities to this commission, as of December 31, 1916, as follows:

<i>Assets.</i>	
Fixed capital and franchise:	
Plant and franchise account.....	\$7,916,433 46
Electric department	2,091,836 45
Gas department	774,092 04
General	97,494 00
<hr/>	
Total investment	\$10,879,855 95
Treasury securities	22,000 00
Sinking fund investments	179,785 99
Other investments	41,097 34
Cash and deposits	56,407 94
Notes receivable	4,171 06
Accounts receivable	143,878 15
Materials and supplies	79,480 15
Prepayments	5,274 02
Unamortized bond discount	565,298 29
Unamortized three-year note discount	41,561 16
Leased signs and motors	7,289 15
Other suspense	37,835 07
<hr/>	
Total assets	\$12,063,934 27
<i>Liabilities.</i>	
Capital stock	\$5,356,500 00
Funded debt	5,682,000 00
Notes payable	450,000 00
Accounts payable	91,736 31
Accrued interest not due	28,316 25
Taxes accrued	40,335 30
Dividends declared	37,187 50
Reserve for accrued depreciation	237,782 13
Reserve for bad debts	471 38
Corporate surplus unappropriated.....	139,605 40
<hr/>	
Total liabilities	\$12,063,934 27

The question was raised at the hearing as to the disposition of the unamortized discount on the \$621,500.00 of notes due October 1, 1917. It appears that this item as of December 31, 1916, is \$41,561.16. Applicant proposed at the hearing to write this amount off over a period of the life of its first and refunding bonds, a period of approximately 24 years. The commission objected to this plan and applicant has since consented to write this item off during the current year. The order hereinafter made is made upon the express understanding by the commission that applicant will write off this entire amount on or before December 31, 1917.

In view of the fact that this applicant has been paying unusually high rates for short term money and has made provision for a large flotation of debentures, it would appear to be essential that it take steps to enlarge its reserves. This is particularly apparent in the face of the necessity of amortizing \$41,561.16 during 1917.

The new construction expenditures which applicant proposes to incur during the twelve months ending November 30, 1917, are as follows:

Stockton division:

Gas department.

Plant including new gas well -----	\$35,550 00	
Distribution -----	59,000 00	
Miscellaneous -----	2,500 00	
		\$97,050 00

Electric department.

Plant -----	\$14,500 00	
Transmission -----	13,500 00	
Distribution -----	93,500 00	
Miscellaneous -----	5,000 00	
		126,500 00

Richmond division:

Electric department.

Plant and transmission -----	\$1,500 00	
Distribution -----	23,500 00	
Miscellaneous -----	1,000 00	
		26,000 00

Eureka division:

Gas department.

Plant -----	\$250 00	
Distribution -----	1,500 00	
		1,750 00

Electric department.

Plant -----	\$35,300 00	
Transmission -----	54,700 00	
Distribution -----	26,500 00	
		116,500 00

Total -----	\$367,800 00	
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If the notes herein authorized are sold by applicant at 92 per cent of their face value, the money derived therefrom will cost applicant approximately 7½ per cent per annum, while if they are sold so as to net applicant 93 the interest charge to applicant will amount to approximately 7 per cent. We believe that under present market conditions applicant will be able to dispose of these notes for at least 93 per cent of their face value.

Under all the circumstances we are of the opinion that the application should be granted subject to the conditions and modifications hereinafter set forth.

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for authority to create a 10-year 6 per cent note indebtedness of the face value of \$5,000,000.00 and to issue \$1,564,000.00 of notes at not less than 92 per cent of their face value, and to execute a trust agreement securing said issue, and a public hearing having been held and the commission finding that the purposes for which said notes or the proceeds thereof are to be used are not in whole or in part

reasonably chargeable to operating expenses or to income, and that for the reasons set forth in the foregoing opinion the application should be granted, subject to the conditions and modifications hereinafter set forth,

It is hereby ordered that Western States Gas and Electric Company be and the same is hereby authorized to execute a trust agreement to Guaranty Trust Company of New York, substantially in the words and figures set forth in the proposed trust agreement filed with this commission on the fifteenth day of February, 1917, and designated as "Exhibit B," for the purpose of securing a \$5,000,000.00 note indebtedness of 10-year 6 per cent notes.

It is hereby further ordered that Western States Gas and Electric Company be and the same is hereby authorized to issue \$1,564,000.00 face value of said notes.

The authority herein granted to execute said trust agreement and to issue said notes is granted upon the following conditions and not otherwise:

1. Said notes shall be sold so as to net applicant not less than 93 per cent of their face value, together with accrued interest.
2. The trust agreement herein authorized to be executed by applicant shall be substantially in the form and substance of the proposed trust agreement of applicant, a copy of which marked "Exhibit B" was filed with this commission on February 15, 1917.
3. The proceeds of the notes herein authorized to be issued shall be applied as follows:

To pay the principal of applicant's three-year notes falling due

October 1, 1917, referred to in the opinion preceding this order \$621,500 00

To refunding the following short-term notes:

Payee	Maturity	Amount
Anglo and London Paris Nat. Bk., S. F.,	3-21-17	----- \$10,000
Anglo and London Paris Nat. Bk., S. F.,	3-21-17	----- 10,000
Anglo and London Paris Nat. Bk., S. F.,	3-21-17	----- 10,000
Anglo and London Paris Nat. Bk., S. F.,	3-21-17	----- 10,000
Anglo and London Paris Nat. Bk., S. F.,	3-21-17	----- 10,000
Anglo and London Paris Nat. Bk., S. F.,	4-20-17	----- 10,000
Anglo and London Paris Nat. Bk., S. F.,	4-20-17	----- 15,000
First National Bank, Stockton,	5- 1-17	----- 30,000
Standard Gas and Electric Company,	3-19-17	----- 50,000
Standard Gas and Electric Company,	3-19-17	----- 50,000
Standard Gas and Electric Company,	3-19-17	----- 50,000
Standard Gas and Electric Company,	3-19-17	----- 50,000
Standard Gas and Electric Company,	3-19-17	----- 50,000
Standard Gas and Electric Company,	3-19-17	----- 50,000
		----- 405,000 00

To reimburse applicant's treasury, said sum to be expended only upon authority from this commission under a supplemental order 112,380 00

To pay for estimated improvements to system to be made during the year ending November 30, 1917, as set forth in the foregoing opinion ----- 315,640 00

Total ----- \$1,454,520 00

4. The authority herein granted to execute the trust agreement above referred to and to issue the notes as above mentioned shall apply only to such trust agreement as shall have been executed and to such notes as shall have been issued on or before October 1, 1917.

5. The approval herein given of the proposed trust agreement is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of such trust agreement as to any other legal requirements to which it may be subject.

6. Western States Gas and Electric Company shall keep a true and correct account showing the receipt and application in detail of the proceeds of the sale of the notes herein authorized to be issued, and shall, on or before the twenty-fifth day of each month, make a verified report to this commission, stating the sale or sales of said notes during the preceding month, the terms and condition of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. This order shall not become effective until applicant shall have paid the fees specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this sixteenth day of March, 1917.

DECISION No. 4184.

IN THE MATTER OF THE APPLICATION OF PATTERSON AND WESTERN RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 2785.

Decided March 16, 1917.

Applicant having constructed a narrow-gauge railroad from the town of Patterson westward to the properties of the Mineral Products Company from funds advanced by the latter named company totaling \$240,597.05, applies for and is authorized to issue \$149,997.00 par value of its capital stock in addition to three shares heretofore issued to qualify directors, such stock to be issued to Mineral Products Company in partial discharge of indebtedness due said company.

Hiram W. Johnson, Jr., for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by Patterson and Western Railroad Company for authority to issue all of its authorized capital stock consisting of 150,000 shares of the par value of \$1.00 each, to Mineral Products Company, a corporation organized and existing under the laws of the

state of Nevada, with its principal office and place of business in Honolulu, T. H.

A public hearing was held in San Francisco, March 10, 1917, before Examiner Baneroft.

From the testimony it appears that Patterson and Western Railroad Company, hereinafter designated and referred to as the "Railroad Company," was incorporated under the laws of the state of California in September, 1915, for the purpose, among others, of constructing a railroad from the town of Patterson westerly for a distance of approximately 25 miles, terminating in section 27, township 6 south, range 5 east, Mount Diablo base and meridian. At the time of its organization, one share was issued at par to each of the three incorporators of the railroad company, leaving 149,997 shares of applicant's stock still unissued.

Rights of way were obtained by condemnation, purchase, or donation, for the entire length of the railroad, about seven miles of which traverses the lands of the Mineral Products Company. The railroad company does not, however, own the terminals at either end of its line, both of which belong to the Mineral Products Company. The road is to be operated as a common carrier, although its primary object will be to serve the Mineral Products Company, which owns and operates mineral bearing property in this territory.

Instead of running the line along the county road from Patterson to the foothills, it was considered advisable to eliminate the danger of accidents by purchasing a private right of way adjoining the road. A strip 30 feet wide and two miles in length was, accordingly, purchased from various owners. The actual work of grading was commenced in January, 1916, and the entire construction of the road has now been completed, except for a portion of the "Y" at the westerly terminal, and a small amount of ballasting.

The road, as constructed, consists of a narrow-gauge (36 inch) line, 23.6 miles in length, running from the town of Patterson, Stanislaus County, westward to Jones Station, with a 25-pound rail, except for certain portions of the road, aggregating about eight miles, where a 35-pound rail is used.

The principal items of the present equipment are two 18-ton Shay locomotives, one 7-ton Milwaukee gasoline locomotive, fourteen 10-ton flat cars, four 10-ton box cars, and ten Roger ballast cars—all equipped with air brakes, patent couplers and safety devices. The company also has a gasoline track automobile. Water tanks have been installed, as well as a fuel station and a telephone line running the entire length of the road.

The railroad company has submitted a financial statement as of March 1, 1917, as follows:

	Debit	Credit
Expenditures, road and equipment.....		\$241,518 19
Amount received from Mineral Products Company to March 1, 1917.....	\$240,597 05	
Received from sale of capital stock to directors.....	3 00	
Due N. B. Livermore & Company.....	60 00	
Due J. Jorgenson.....	900 00	
Due W. C. Peall.....	260 00	
Cash on hand.....		301 86
Totals	\$241,820 05	\$241,820 05

Since March 1st, the amounts due to J. Jorgenson and W. C. Peall have been paid by the railroad company.

Applicant has also submitted an itemized statement of the cost of its road and equipment, as follows:

Engineering	\$17,036 82
Right of way	3,184 94
Organization expenses	501 48
General officers and clerks	5,070 82
General officers and clerks at Patterson	5,886 71
Stationery and printing	160 99
Stationery and printing at Patterson	725 47
Freight train cars	12,050 06
Roadway buildings	74 91
Culverts	3,446 84
Station and office building	1,044 26
Shop and engine house	731 68
Telephone line	1,522 99
Crossings and signs	259 55
Grading	63,064 70
Law	501 75
Right of way fences	234 70
Tracklaying and surfacing	17,481 37
Bridges	9,435 76
Rails	47,195 47
Trestles	3,388 32
Gasoline locomotives	3,340 89
Steam locomotives	10,832 39
Roadway small tools	672 22
Other track material	7,702 51
Operating expenses during construction	4,309 97
Other general expenses	323 21
Other general expenses at Patterson	1,589 04
Taxes	721 93
Ties	11,134 18
Fuel stations	1,000 16
Water stations	893 76
Miscellaneous equipment—	
Unapplied construction material	1,005 39
Signals	14 82
Roadway machines	1,160 23
Ballasting	3,723 65
Shop and machinery tools	4 25
Total	\$241,518 19

Applicant now desires to issue its 150,000 shares of capital stock to Mineral Products Company in the discharge of \$150,000.00 of its debt to said company, which was incurred for cash advanced for the construction and equipment of said road, which would leave \$90,597.05 still due from applicant to said Mineral Products Company in addition to any moneys that may have been advanced by said company to applicant since March 1, 1917. Except for its small current bills and \$60.00 due to Norman B. Livermore Company, applicant has no mortgage or indebtedness of any kind, excepting that due the Mineral Products Company, from which company applicant received all the money required for the construction and equipment of its road, with the exception of \$3.00 received from the sale of stock to the incorporators.

According to the testimony, the officers of Mineral Products Company have no intention of selling or otherwise disposing of any of applicant's stock.

As applicant has already issued three shares of its capital stock, we can authorize it to issue only 149,997 more; but subject to this modification, we feel that the application should unquestionably be granted. Applicant will then be in the position of having its road built, equipped, and in actual operation free from any bonded or other indebtedness of any kind, excepting its open account to the owner of practically all of its capital stock.

ORDER.

Patterson and Western Railroad Company having applied to this commission for an order authorizing it to issue 150,000 shares of its capital stock, of the par value of \$1.00 per share, for the purpose of discharging \$150,000.00 of its indebtedness to Mineral Products Company, a corporation, and a public hearing having been held, and it appearing that said indebtedness to said Mineral Products Company has been incurred, and that the proceeds thereof have been expended by applicant, for the acquisition of property and for the construction and improvement of its facilities, and that the said indebtedness was not incurred for, and the proceeds thereof were not devoted to, uses in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted as to all of applicant's unissued stock,

It is hereby ordered that Patterson and Western Railroad Company be and the same is hereby authorized to issue to Mineral Products Company, a corporation organized under and by virtue of the laws of the state of Nevada, with its principal place of business in Honolulu, T. H., 149,997 shares of its capital stock, of the par value of \$1.00 per share, in discharge of \$149,997.00 of its indebtedness to said Mineral Products

Company. The authority herein granted is granted subject to the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall not be issued after September 1, 1917.

2. Patterson and Western Railroad shall keep a true and accurate record of the issue of said stock, and shall, on or before the twenty-fifth day of each month, make a verified report to this commission, stating the sale or sales of said stock during the preceding month, the terms and condition of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this sixteenth day of March, 1917.

DECISION No. 4185.

IN THE MATTER OF THE APPLICATION OF MARIN MUNICIPAL WATER DISTRICT FOR AN ORDER OF THE RAILROAD COMMISSION FIXING AND DETERMINING THE JUST COMPENSATION TO BE PAID TO MARIN WATER AND POWER COMPANY FOR ITS LANDS, PROPERTY AND RIGHTS.

Application No. 1141.

Decided March 16, 1917.

An additional sum of \$2,124.06 is added to the \$6,654.47 heretofore certified to the Superior Court of Marin County as additional compensation due Marin Water and Power Company under the head of miscellaneous equipment. Petition for rehearing in all other respects dismissed.

BY THE COMMISSION.

OPINION ON PETITION OF MARIN WATER AND POWER COMPANY FOR REHEARING ON SUPPLEMENTAL PETITIONS.

Marin Water and Power Company, hereinafter referred to as the water company, has filed herein a petition for rehearing on Decision No. 4109, made and filed herein on February 15, 1917, on four supplemental petitions.

The water company's first point is that in fixing the just compensation to be paid by Marin Municipal Water District, hereinafter referred to as the water district, for miscellaneous equipment of the water company, the Railroad Commission omitted the following items:

- 1 Cash register.
- 1 Evinrude motor.
- 1 Silencer for Evinrude motor.
- 1 Protectograph.

- 1 Hand graphotype.
- 1 Addressograph.
- 4700 dies for addressograph.
- 400 blank dies.
- 300 frames.
- 1 Revolver for patrolman.
- 1 Atwood clinometer.
- 1 Studebaker automobile.

The matter of the additional compensation to be paid by the water district for the miscellaneous equipment of the water company was presented to the Railroad Commission by the water company in its second supplemental petition herein. The property items hereinbefore set forth were not included in any exhibit filed by the water company in connection with its second supplemental petition herein. These items were included, however, in Exhibit No. 7 of the water company, filed in connection with the water company's first supplemental petition herein. These items are a part of the water company's miscellaneous equipment and the water company is entitled to have the Railroad Commission determine the just compensation to be paid by the water district for the same.

Bearing in mind the age and service condition of these items, we find that to the sum of \$6,654.47, which sum we found in the decision of February 15, 1917, herein to be a just and reasonable sum to be added under the head of miscellaneous equipment to the total just compensation found in our Decision No. 2279, made and filed on April 9, 1915, in the above-entitled proceeding, there should be added the further compensation of \$2,124.06, making a total compensation for miscellaneous equipment amounting to \$8,778.53.

We have given careful consideration to the other points urged by the water company in its petition for rehearing herein and find that there is no merit therein.

The findings and order in Decision No. 4109, made and filed on February 15, 1917, in this proceeding, should be modified in accordance with this opinion and the water company's petition for rehearing should thereupon be denied. To avoid confusion, the findings and order, as thus modified, will be set forth herein in full.

FINDINGS.

Marin Water and Power Company having filed three supplemental petitions herein and Marin Municipal Water District having filed one supplemental petition herein, all as set forth in the foregoing

opinion, public hearings having been held on said petitions, briefs having been filed and said petitions being now ready for decision, the Railroad Commission hereby finds as a fact that the just compensation heretofore fixed and determined by the Railroad Commission to be paid by Marin Municipal Water District to Marin Water and Power Company for all of said company's lands, property and rights, other than the right to be a corporation, as appears in Decision No. 2279, made and filed on April 9, 1915, in the above-entitled proceeding, should be increased in the sum of \$11,775.76, as stipulated between Marin Municipal Water District and Marin Water and Power Company, and in the further sum of \$8,778.53, being additional compensation to be paid for miscellaneous equipment.

ORDER.

It is hereby ordered that in all respects other than as set forth in the findings which precede this order, each of the four supplemental petitions herein shall be and they are hereby dismissed.

It is further ordered that the secretary of the Railroad Commission be and he is hereby directed to transmit to the Superior Court of the state of California, in and for the county of Marin, a copy of the opinion, findings and order in this decision, certified under the seal of the Railroad Commission, together with advice that to the just compensation of \$1,200,150.00, heretofore fixed and determined by the Railroad Commission to be paid by Marin Municipal Water District for the lands, property and rights of Marin Water and Power Company, as described in the original petition herein and in Exhibit A, attached to and made a part of the findings of the Railroad Commission of April 9, 1915, there should be added, in such modified judgment as said court may hereafter enter in Case No. 4495, *Marin Municipal Water District, a public corporation, plaintiff, vs. Marin Water and Power Company, a corporation, Mercantile Trust Company of San Francisco, a corporation, et al., defendants*, the additional sum of \$20,534.29, consisting of \$11,755.76, as provided by stipulation between Marin Municipal Water District and Marin Water and Power Company, and the sum of \$8,778.53, being additional compensation for miscellaneous equipment.

It is further ordered that the petition of Marin Water and Power Company for rehearing herein be and the same is hereby denied.

Dated at San Francisco, California, this sixteenth day of March, 1917.

DECISION No. 4186.

IN THE MATTER OF THE APPLICATION OF ALTURAS ELECTRIC
POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF
BONDS.

Application No. 1970.

Decided March 16, 1917.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this commission in Decision No. 3136, dated February 29, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 274), authorized Alturas Electric Power Company to issue \$90,000.00 face value of first mortgage thirty year 6 per cent bonds; and

Whereas said order provided that a portion of the proceeds from the sale of said bonds might be used to pay a note to Jacob L. Gilcher in the principal sum of \$1,450.00; and

Whereas applicant has now advised this commission that said note is about to outlaw and has requested that it be given authority to issue a note in renewal thereof with the option of thereafter retiring said renewal note out of the proceeds of its bond issue;

And it appearing to this commission that applicant's request is reasonable and should be granted,

It is hereby ordered that Alturas Electric Power Company be and it is hereby authorized to issue a note to Jacob L. Gilcher in the principal sum of \$1,450.00 payable not more than one year after date and bearing interest at not to exceed 8 per cent per annum;

It is hereby further ordered that the authority heretofore granted applicant in Decision No. 3136, dated February 29, 1916, to use a portion of the proceeds from the sale of its first mortgage thirty year 6 per cent bonds in paying a note to Jacob L. Gilcher in the principal sum of \$1,450.00 shall apply also to the renewal note herein authorized.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The note herein authorized to be issued shall be issued solely for the purpose of renewing a note now outstanding, payable to Jacob L. Gilcher in the principal sum of \$1,450.00, dated March 18, 1911, due March 18, 1912, and bearing interest at 8 per cent per annum.

2. Except as herein amended this commission's Decision No. 3136, dated February 29, 1916, and such orders as have been issued supplemental thereto shall remain in full force and effect.

3. Within thirty days after the issue of the note herein authorized applicant shall report to this commission the face value of the note so issued and the amount received therefor and the disposition of the proceeds, all in accordance with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

5. The authority herein granted shall apply only to such note as shall have been issued on or before April 30, 1917.

Dated at San Francisco, California, this sixteenth day of March, 1917.

DECISION No. 4187.

J. H. FRENCH

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 1014.

Decided March 16, 1917.

Complaint petitioning the Railroad Commission to compel defendant company to install a spur track for the accommodation of shippers between the stations of Eel Rock and Sequoia.

Held, When it is practically impossible for shippers to move commodities for shipment to existing stations owing to the inaccessibility of the mountainous territory through which roads must be constructed, it is not unduly burdensome to require a common carrier to construct a spur track as herein petitioned for.

Defendant required to construct a spur track at point named, provided that prior to such construction a wagon road shall be built by shippers from a point on the county road to the lands of complainant.

G. M. Pittman, for Complainant.

Stanley Moore and *W. S. Palmer*, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint brought by J. H. French under the provisions of section 25, paragraph (b) of the Public Utilities Act, alleging that the Northwestern Pacific Railroad Company has refused to construct a spur track leading from its main line at a point in the northwest quarter (NW. $\frac{1}{4}$) of section eight (8), township two (2) south, range four (4) east, Humboldt base and meridian, to serve the complainant; that the construction of said spur track is reasonably practicable and can be installed and thereafter used without materially increasing the hazard of operation of the railroad; and that the business which may reasonably be expected to be received over said spur track is sufficient to justify the expense of the desired installation.

The Northwestern Pacific Railroad Company filed its answer denying the material allegations of the complaint and alleging that established station facilities at its station of Eel Rock were more accessible and convenient for the use of shippers than the proposed spur track would be, due to the fact that there are no wagon roads leading to or from the proposed location.

A public hearing was held at Eel Rock on January 24, 1917, before Examiner Encell, the matter was submitted and is now ready for decision.

The point at which the proposed spur track is desired is situated between the stations of Eel Rock and Sequoia, between mile posts 227 and 228, at approximately Engineer's Station 5250. No wagon road exists to either station and the expense of constructing suitable roads would be prohibitive, due to mountain ridges and deep gulches. The only means of access from the complainant's property to Eel Rock station is via the tracks and right of way of the Northwestern Pacific Railroad, but such access is not available for the teaming of shipments, as two tunnels are located between these points. The land of the complainant is situated on the south bank of the Eel River. The right of way of the Northwestern Pacific Railroad is accessible to owners of land on the north side of the river by fording the Eel in the low water period and by boats in the season of high water and thence by passing over the land of complainant.

A number of witnesses residing on the north side of Eel River testified as to their desire for a spur track and shipping point adjacent to the complainant's property and as to the inconvenience and extra expense necessary to haul shipments to Eel Rock Station or to the station of Fort Seward. There is no road existing at the present time enabling shipments to be hauled to Eel Rock Station and access to the Fort Seward Station, which is a more distant point, is via the Blocksburg road, a route which at present is impossible of use to the complainant and to others located in close proximity to him.

Some three years ago the residents of the section to be served by the proposed spur financed a survey for a proposed wagon road, the same commencing at a point on the county road known as the Larabee Creek road and running in a general southwesterly direction, following the contour of the country, to a point on the north bank of the Eel River opposite the land of the complainant in this case. Some work has been done by the residents on the construction of this road, about one mile being available for use through the property of George W. Curless. It appears that if a spur track is installed the entire road would be constructed to gain access to the proposed shipping point, the residents and landowners offering to undertake its construction, provided they had

assurance that a shipping point would be available when the road was completed.

The proposed road would serve as an outlet for all tonnage from Larabee Creek to the site of the proposed spur, thereby providing an outlet for all shipments originating on the Larabee Creek slope and the north slope of the Eel River. This road would have a length of approximately seven miles. The distance to Fort Seward Station from the point of intersection of the proposed road with the county road is approximately thirteen miles. Considering the roughness of the country and the heavy grades on these mountain roads, the saving in mileage is a material factor which can not be disregarded in this case.

The products available for shipment, provided the spur is installed and the road heretofore mentioned is constructed, are principally those of the forest, such as hardwood logs, tan bark, ship and boat knees, cord wood, stave bolts, fir piling, logs and tan oak. There is a small amount of grain raised and if facilities existed for convenient shipment without the necessity for an unreasonable wagon haul more acreage would be planted to grain. The following amounts of products were stated to be available for shipment:

	Tan bark (cords)	Stave bolts (cords)	Fire wood (cords)	Hardware, logs (carloads)	Piling	Pine timber (ft. b. m.)
J. H. French (now ready) ..	175	1,200	400	12 to 15	5,000 to 7,000	-----
G. W. Curless....	600	-----	-----	-----	-----	-----
Tolbert Curless..	700	-----	-----	-----	-----	-----
Charles Martin and mother.....	1,120	-----	-----	-----	-----	3,000,000
H. A. Hansen.....	80 to 100	-----	-----	-----	-----	-----
E. J. Hunter.....	60 to 100	-----	-----	-----	-----	Several million feet.
H. L. Campbell..	500	-----	-----	-----	-----	2,000,000
H. M. Lutze.....	500	-----	-----	-----	-----	2,000,000

Mr. M. L. Gillogly, a witness for the defendant, testified as to other methods of access to Eel Rock Station, such requiring, however, the construction of roads to make same available. He also testified as to the possibility of constructing a road from the property of the complainant to a point on the defendant's line of railroad known as McKee's, where a spur track was formerly installed for the handling of timber products. The construction of such road to the defendant's line of railroad would, however, increase the expense of the road construction required of prospective shippers on the north side of Eel River. Other witnesses who testified in behalf of the defendant, Northwestern Pacific Railroad Company, resided on the south side of Eel River and were adequately served by the station of Eel Rock and had

no knowledge of the requirements of shippers on the northerly side of Eel River, one witness not having been in that locality for some twelve years. No material evidence was presented as to increased hazard of operation were a spur track to be installed at the location desired.

After careful consideration of all the evidence in this case, we are of the opinion and find as a fact that the complainant and other prospective shippers north of Eel River are entitled to a shipping point at the location requested, provided, however, that the construction of the proposed road from a connection with the county road known as the "Larabee Creek Road" to a point on the north bank of the Eel River opposite the property of the complainant shall first be completed by the prospective shippers and a right of way from the south bank of Eel River to the proposed spur be granted by the complainant.

ORDER.

Complaint having been made as to the refusal of the Northwestern Pacific Railroad Company to install a spur track for the accommodation of freight shippers at a point on its line between the stations of Eel Rock and Sequoia (between mile posts 227 and 228, approximately at Engineer's Station 5250), and a public hearing having been held and the matter duly submitted, and the commission being fully advised in the premises and basing its order on the findings of fact in the foregoing opinion.

It is hereby ordered that the Northwestern Pacific Railroad Company install and hereafter maintain until the further order of this commission a spur track for the accommodation of freight shippers at a point between mile posts 227 and 228 at approximately Engineer's Station 5250 and between the stations of Eel Rock and Sequoia, provided that prior to the installation of such spur track and within six months from the date of this order, a wagon road shall have been constructed from a point on the county road known as the "Larabee Creek Road" in a general southwesterly direction, following the contour of the country, to a point on the north bank of the Eel River approximately opposite the land of J. H. French, in section eight (8), township two (2) south, range four (4) east, Humboldt base and meridian, and that a right of way for a wagon road shall be granted and method of access provided through the property of J. H. French from the south bank of the Eel River to the site of the aforesaid spur track.

The commission reserves the right to make such other and further orders with respect to this matter as in its judgment may appear meet and proper in the premises.

Dated at San Francisco, California, this sixteenth day of March, 1917.

DECISION No. 4188.

IN THE MATTER OF THE APPLICATION OF CITY OF VENICE, FOR AUTHORITY TO CONSTRUCT A PUBLIC STREET OR WAY ACROSS THE RIGHT OF WAY AND PROPERTY OF PACIFIC ELECTRIC RAILWAY COMPANY AND TO EFFECT THE EXTENSION OF SANTA CLARA AVENUE FROM WASHINGTON BOULEVARD TO ELECTRIC AVENUE.

Application No. 2722.

Decided March 16, 1917.

Though it is the announced policy of the commission to eliminate all unnecessary grade crossings within the state, public convenience requires at times that new crossings be constructed. Applicant authorized to construct Santa Clara avenue at grade across the branch line track of Pacific Electric Railway Company in the city of Venice, the city to stand all expenses of such construction.

R. L. Johnston, for city of Venice.

R. C. Gortner, for Pacific Electric Railway Company.

LOVELAND, *Commissioner*.

OPINION.

In this application permission is asked by the city of Venice, Los Angeles County, California, an incorporated city of the sixth class, to construct and maintain a highway crossing over the tracks of the Pacific Electric Railway at the point where Santa Clara avenue, in said city of Venice, extends to the right of way of the Pacific Electric Railway from either side; in other words permission is asked to connect the two portions of Santa Clara avenue over the tracks and right of way of said Pacific Electric Railway.

A public hearing was held in the city of Venice at 10.30 a.m. on the tenth day of March, 1917.

For an adequate understanding of the situation it should be stated that the line of the Pacific Electric Railway over which permission is sought to extend Santa Clara avenue is not the main line of said Pacific Electric Railway, but is a branch line through the outskirts of Venice, running in a general east and west direction from the main line of the Pacific Electric Railway between the city of Los Angeles and the city of Venice. Santa Clara avenue lies between California street, 700 feet to the east, and San Juan avenue, 400 feet to the west, both of which are open streets, and it will be seen that for a distance of 1,100 feet there is no public crossing over this branch line of the railroad.

Witnesses for applicant testified that a crossing of Santa Clara avenue over the tracks and right of way of the Pacific Electric Railway, at the point in question, would be a matter of great convenience to those residents of Venice who live north of the track of said Pacific Electric Railway in question, and I am convinced that it would be a considerable

convenience not only to those who live in the city of Venice but to those who visit Venice.

The commission, as it is well known, is in general opposed to the opening of new grade crossings. It is now carrying on an extensive investigation of grade crossings in the state and before this work is completed it is hoped that many unnecessary crossings now existing may be closed. It does not look with favor on the opening of new crossings on the general principle that each new crossing creates a certain amount of new travel over the tracks and that a certain amount of hazard inevitably accompanies it. However, it recognizes the fact that new crossings must be constructed and that it can not, at this time, take the attitude that all future crossings of streets and highways with railroads must be made at separated grades. It must continue to balance the hazard of each grade crossing with the convenience of the public it serves and when the hazard outweighs the convenience the crossing must be refused.

In this case the scales incline the other way. The convenience of the proposed crossing is apparent while the hazard which would be occasioned by its opening is trifling. Except for one corner the view at the intersection of the street and the track is entirely open; and the train service is so light and is of such slow speed that it does not differ greatly from the service given over an unimportant spur track. In this particular, also, Santa Clara avenue, to the south of the track, is a blind street and several witnesses testified that the lack of a crossing at this point created a situation more dangerous than a grade crossing would be.

After due consideration of the evidence and the facts of the case I am of the opinion that this application should be granted, and recommend the following form of order:

ORDER.

City of Venice, having on January 17, 1917, applied to the commission for permission to construct Santa Clara avenue at grade over the track of Pacific Electric Railway Company, and a public hearing having been held, and the commission being of the opinion that this application should be granted subject to certain conditions,

It is hereby ordered that permission be and the same hereby is granted city of Venice to construct Santa Clara avenue at grade over the track of Pacific Electric Railway Company at the point and in the manner shown by the map attached to the application; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing shall be borne by applicant.

(2) The expense of maintaining the crossing thereafter to a line two (2) feet outside the rails of Pacific Electric Railway shall be borne by applicant. The expense of maintaining the crossing between the

rails and to a point two (2) feet outside thereof shall be borne by Pacific Electric Railway Company.

(3) Said crossing shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach on the south side not exceeding six (6) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of March, 1917.

DECISION No. 4189.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A SPUR TRACK IN AND ALONG FOURTEENTH STREET IN THE CITY OF UPLAND.

Application No. 2754.

Decided March 19, 1917.

The railroad company agreeing to contribute a substantial amount of the street improvement necessary, it is granted permission to construct a spur track at grade along Fourteenth street in the city of Upland.

M. W. Reed, for Applicant.

J. F. Anderson, for city of Upland.

BY THE COMMISSION.

OPINION.

A public hearing was conducted by Myron Westover, examiner, at Upland, February 28, 1917, upon above application to construct a spur track across Fourteenth street near Campus avenue, in Upland, San Bernardino County.

At present applicant operates what is known as its Upland citrus spur, about four miles long, extending through a district devoted almost entirely to the growing of citrus fruits. It now wishes to construct a switch parallel to its said fruit spur, to be connected at both ends, and to be used principally for deliveries of fertilizers to fruit growers. It has

such a switch now at Nineteenth street where most of the deliveries of about 400 cars of fertilizers per year are made.

The proposed delivery track at Fourteenth street is by road about one and three-fourths miles from the Nineteenth-street spur, and will greatly decrease the team haul for fruit growers of the vicinity. The street, in the vicinity of the proposed crossing, is not opened or improved and has very little travel upon it.

The city offers no objection to the proposed spur, but at the time of the hearing had not granted franchise therefor. We are informed by the city clerk that franchise has since been granted.

The city urged that the increased hauling would make it necessary to improve Fourteenth street by grading and oiling, the cost of which it estimated at \$1,500.00 for the 2,200 feet which would be most used. It sought to have the applicant participate in this expense. The representatives of the railroad at the hearing expressed a willingness to improve the street in the same manner between the rails and for a distance of two feet outside the rails. As the proposed track lies in the street for a distance of nearly 334 feet, crossing the street diagonally, a considerable portion of the street would be included in the improvement proposed between and near the rails. They also expressed a willingness to recommend that the company assume a considerable further share in improving the 2,200 feet of street proposed. Counsel for applicant reports that since the hearing the management has authorized a contribution of \$300.00 worth of material toward the improvement.

ORDER.

The Atchison, Topeka and Santa Fe Railway Company, having applied to the Railroad Commission for authority to construct and maintain a spur track at grade in and along Fourteenth street in the city of Upland, in San Bernardino County, at the place and in the manner shown upon the map and profile attached to the application as an exhibit, and a public hearing having been held thereon and it appearing that the public convenience requires the establishment of such a crossing and that it will not seriously affect the safety of the traveling public,

It is hereby ordered by the Railroad Commission of the State of California that said application be and it is hereby granted, subject to the following conditions:

1. The entire expense of constructing and maintaining the crossing shall be borne by applicant.
2. Applicant shall pave or improve the street between its rails and for a distance of two feet on each side thereof at the time when and in the manner in which said street is first improved or paved by the city of Upland.

3. Said crossing shall be constructed with grades of approach not excluding four per cent, protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

4. The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if in its judgment the public convenience and necessity demand such action.

Dated at San Francisco, California, this nineteenth day of March, 1917.

DECISION No. 4190.

IN THE MATTER OF THE APPLICATION OF CORTE MADERA WATER COMPANY TO ESTABLISH RATES.

Application No. 2751.

Decided March 19, 1917.

The following schedule of rates established to become effective on system of applicant serving water in the towns of Corte Madera, Larkspur and vicinity: Metered services, \$1.00 minimum for 280 cubic feet or less, next 220 cubic feet 35 cents per 100, next 500 cubic feet 25 cents per 100, over 1,000 cubic feet 20 cents per 100. Fire service, 20 hydrants or less, \$22.50 per month; each additional hydrant 50 cents. Applicant authorized to require a payment of \$5.00 upon the beginning of service or the resumption of service after discontinuance, such charge to cover minimum for five months or fraction thereof.

A contract providing for the delivery of water free of charge to a certain estate can not be recognized by the commission. All water delivered from the system of applicant must be charged for at the regular rates for such service.

F. A. Wilson, for Applicant.

John J. Mazza, for town of Corte Madera.

E. L. Doherty, *in propria persona*.

BY THE COMMISSION.

OPINION.

A public hearing was conducted at Corte Madera by Myron Westover, examiner, on February 20, 1917, in above application to establish rates for domestic water served to inhabitants of Corte Madera, Larkspur and vicinity, in Marin County.

The system is operated by F. A. Wilson under the name of Corte Madera Water Company and has 135 services, 67 of which are metered, but many of which are inactive. Mr. Wilson owns the pumps and motors, about 3,100 feet of pipe, with a number of services and meters.

The westerly portion of the system lying on the high wooded ridge west of the station, on which are about 51 services, is owned by E. L.

Doherty. For it Mr. Wilson pays rental at the rate of \$30.00 per year. That part of the system on the level ground easterly of the Northwestern Pacific Railroad is owned by G. G. Vickerson. For this Mr. Wilson pays a rental of \$30.00 per year. The pipe leading from what is known as the Bradbury well at Larkspur to Mr. Wilson's tanks at Corte Madera belongs to Bradbury Estate Investment Company, and is used principally for an extra supply of water in the summer time. For the use of the well and transmission line Mr. Wilson pays a rental of \$31.00 per month.

The main supply of water throughout the year is obtained from a well belonging to A. W. Larsen, who also owns and operates a distributing system. In return for the use of the Larsen well, Mr. Wilson pumps water for consumers on the Larsen system.

The four-inch wrought iron pipe line about 2,800 feet long connecting the Vickerson system east of the tracks with ten fire hydrants in the business part of Corte Madera belongs to the town of Corte Madera as successor in interest of the Corte Madera Fire District which was dissolved at about the time the town was incorporated in June, 1915.

The town owns all of the 29 fire hydrants on the system operated by Mr. Wilson. They were installed by the fire district. The pressure at these hydrants ranges from 25 pounds to 170 pounds per square inch owing to topography and location of tanks at various points on the hills. The high pressure is about uniform over the flat ground where the business section of the town is located. The town's pipe has heretofore been and is now being used by Mr. Wilson in return for free fire service rendered by Mr. Wilson. However, he has paralleled most of the town pipe with his own mains and can use his mains for fire service to seven hydrants.

The pumping plant consists of four small pumps and four motors with a combined capacity of eight horsepower. Water is pumped to five tanks belonging to Mr. Doherty, located at various points and elevations on the ridge. Some of the water is relayed by pumps two or three times to the various elevations, especially in the summer.

Mr. Wilson operates all of the system above described and has installed service connections on all parts of it as well as upon that portion of the system in which mains are owned by him.

In addition to services upon the Corte Madera system above described, the Chapman Water Company has on its system about 120 services, and the Marin Municipal Water District has about 10 services on its transmission lines, which pass through Corte Madera.

The particular reason for asking the establishment of new rates is that the commission may consider what rate should be charged for fire service in view of the fact that the town owns the hydrants, and that part of the mains were installed by the fire district at a cost of \$1,940.86

for mains and hydrants on the Wilson system. The transient character of a very large part of the summer population must also be considered. At the hearing Mr. Doherty announced that he intended to soon begin operating his part of the system, as he is now operating a water utility at San Anselmo, a few miles from Corte Madera. He proposes to pay Mr. Wilson for services and extensions installed by him. Attention must therefore be given to conditions as they will exist after the Doherty property is severed. All parties expressed a willingness to use approximately the rates charged by Marin Municipal Water District. The rates fixed in the order approximate the Marin rates.

Of the above items of expense the rental of \$31.00 per month paid to the Bradbury Estate Investment Company under contract constitutes a severe strain on the revenues of the system and places an undue burden on the consumers, especially as no charge has heretofore been made for water served to the Bradbury residence and grounds, two cottages, a stable, butcher shop and public park at Corte Madera. The contract requires such water to be furnished, not exceeding, however, the maximum limit of 200,000 gallons per month. All water served from the system should be collected for at regular rates without discrimination.

The commission's engineers estimate that a fair return to the Bradbury Estate Investment Company upon its estimated investment in the property used by Mr. Wilson would be about \$14.00 per month, and this sum is being allowed in the determination of rates herein.

The fluctuation in gross revenue between winter and summer when many additional services are used by the transient summer population, is shown by the records of the smallest and largest numbers served during 1916.

On the Doherty part of the system 34 were served in January and 45 were served in July. On the remainder of the system 26 were served in January and 44 were served in June. The average number paying water bills on the system, exclusive of the Doherty property, was in June, July, August and September, 42, and during the other months of the year 1916, 29.

We have attempted to so arrange the minimum charges that those who are consumers during all or most of the year may pay the same minimum monthly charge, while those who are summer visitors will be required to bear their proper share of the burden in the shape of a ready to serve charge.

Mr. Milo H. Brinkley, one of the commission's assistant hydraulic engineers, estimates Mr. Wilson's investment, exclusive of improvements installed by him on the Doherty system, which Mr. Doherty expects to purchase and pay for, at the sum of \$1,820.00.

The rates fixed in the order it is estimated will provide for suitable maintenance, operation, depreciation and a fair return on the above investment.

ORDER.

F. A. Wilson having applied to the commission in the name of Corte Madera Water Company for an order establishing just and reasonable rates for water served to the residents of Corte Madera, Larkspur and vicinity in Marin County, and a public hearing having been held thereon and the matter having been submitted to the commission for determination, it is hereby found as a fact by the Railroad Commission of the state of California that the rates of said applicant, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust and that the rates hereinafter set out are hereby found to be just and reasonable rates and basing its order on the foregoing findings of fact and upon the further findings of fact set out in the opinion preceding this order.

It is hereby ordered by the Railroad Commission of the state of California that said F. A. Wilson, operating a public water utility under the name of Corte Madera Water Company be and he is hereby directed to establish and file with this commission within twenty days from the date of this order the following schedule of rates for water served to the inhabitants of Corte Madera, Larkspur and vicinity in Marin County, said schedule to be effective upon filing:

MONTHLY METER RATES.

For 280 cubic feet or less.....	\$1 00
For next 220 cubic feet, per 100 cubic feet.....	35
For next 500 cubic feet, per 100 cubic feet.....	25
For use above 1,000 cubic feet, per 100 cubic feet.....	20
Monthly minimum charge, \$1.00.	

MONTHLY FLAT RATES.

Fire Service.

Monthly charge for service through 20 hydrants or less.....	\$22 50
For service through each additional hydrant installed.....	50

Upon beginning service to any premises, or upon resuming service after discontinuance of service or monthly payment of bill for any period, a charge of \$5.00 will be collected in advance to cover the monthly minimum charge for the following five months or any fraction thereof.

Dated at San Francisco, California, this nineteenth day of March, 1917.

Decisions Nos. 4191 and 4192, grade crossings; not printed. See end of volume.

DECISION No. 4193.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING SAID CORPORATION TO REDUCE THE NUMBER OF TRAINS OPERATING DAILY OVER ITS RAILWAY, TO MAKE CHANGES IN ITS RATES AND FOR AN INVESTIGATION AS TO THE NECESSITY OF SUCH REDUCTIONS AND CHANGES.

Application No. 2482.

Decided March 21, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above-entitled matter having made written request that said application be dismissed,

It is hereby ordered that the application herein be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-first day of March, 1917.

DECISION No. 4194.

IN THE MATTER OF THE APPLICATION OF COLORADO RIVER TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 2738.

Decided March 21, 1917.

Applicant authorized to issue 9,574 shares of its capital stock of the par value of \$1.00 per share, to be sold at not less than par, proceeds to be used partly to reimburse applicant the purchase price of telephone lines recently acquired, the balance for construction work and additions and betterments to plant.

Section 52 of the Public Utilities Act prohibits the Railroad Commission from authorizing the issue and sale of stock to cover the cost of a franchise in excess of the actual cost thereof to the grantee. Detailed statement of the cost of acquiring applicant's franchise required before stock may be issued and sold covering such expenditures.

S. D. Kamrar, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by Colorado River Telephone Company, a corporation, having its principal place of business in the town of Blythe, Riverside County, California, for an order of the Railroad Commission authorizing it to issue 9,674 shares of its capital stock at the par value of \$1.00 per share for the purposes which follow:

On June 17, 1916, this commission issued its order, Decision No. 3435 in Application No. 2031, in the matter of the application of this corporation, which permitted it, among other things, to issue 17,487 shares of its capital stock. The time within which the petitioner was permitted to issue and sell this amount of stock was limited to December 31, 1916. No stock was sold within this time and the petitioner is now renewing its application for authority to issue 9,674 shares. The purposes for which the proceeds from the sale of this stock are proposed to be used are set forth as follows:

One thousand two hundred fifty shares to be sold to reimburse S. D. Kamrar for the payment of \$1,250.00 to Mrs. Jessie Brown for the corporation as the purchase price of a telephone line extending from Blythe to Blythe Junction in Riverside County. Authority to Mrs. Jessie Brown to sell and to the Colorado River Telephone Company to purchase this telephone line was granted by the commission during the month of June, 1916.

Two thousand shares to reimburse Kamrar and Brown for the cost of a franchise granted to the corporation by the board of supervisors of Riverside County on September 21, 1914.

Two thousand two hundred seventy-nine shares to cover the cost of material and supplies other than poles.

Two thousand four hundred shares to cover the cost of poles.

One thousand six hundred forty-five shares to cover the cost of labor involved in installing the petitioner's telephone system.

One hundred shares for the purpose of purchasing office furniture and fixtures.

It appears from the list of items contained in the petition setting forth the purposes for which the proceeds to be derived from this sale of stock are to be used, that an error in addition occurred in the various items going to make up the cost of labor of installing the system. The attention of the petitioner being called to this matter, this error has been corrected and the correct amount (\$1,545.00) has been entered.

The various purposes for which these proceeds are to be used appear to be proper purposes for capital expenditures, except that the item \$2,000.00 intended to cover the cost of the franchise above referred to, does not appear to cover the exact amount of the cost of this franchise. Petitioner has stated that an accurate record of the actual cost of this franchise has not been kept, that no amount was paid to the board of supervisors for the franchise, but that the expenses involved in securing it were somewhat in excess of \$1,000.00. Petitioner urges that the value of the franchise to the corporation is \$2,000.00, and that it desires accordingly to issue stock for this amount. The commission can not, of course, authorize the issue and sale of stock to cover the cost of franchises in excess of the actual cost of the same (Public Utilities Act,

section 52). The order herein will limit the amount of stock which the petitioner may issue and sell for this purpose to such amount as petitioner may show as its actual cost.

In other respects, there appears to be no objection to granting the authority for which the petitioner is now asking.

ORDER.

Application having been made to this commission by Colorado River Telephone Company, a corporation, for authority to issue **nine thousand six hundred seventy-four (9,674)** shares of its capital stock of the par value of one dollar (\$1) per share for the purposes which are set forth in the preceding opinion, and a public hearing having been held and it appearing to this commission that the purposes for which it is proposed to issue said stock, to the extent hereinafter authorized, are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Colorado River Telephone Company be and it is hereby granted authority to issue and sell not to exceed **nine thousand five hundred seventy-four (9,574)** shares of capital stock of the par value of one dollar (\$1) per share, and to use the proceeds for the following purposes:

One thousand two hundred fifty dollars to reimburse **S. D. Kamrar** for the payment of \$1,250.00 to Mrs. Jessie Brown for the corporation as the purchase price of a telephone line extending from Blythe to Blythe Junction in Riverside County.

Two thousand dollars or such portion thereof as may be necessary to reimburse Kamrar and Brown for the cost of a franchise granted to the corporation by the board of supervisors of Riverside County on September 21, 1914.

Two thousand two hundred seventy-nine dollars to cover the cost of material and supplies other than poles.

Two thousand four hundred dollars to cover the cost of poles.

One thousand five hundred forty-five dollars to cover the cost of labor involved in installing the petitioner's telephone system.

One hundred dollars for the purpose of purchasing office furniture and fixtures.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Said stock shall be sold so as to net Colorado River Telephone Company not less than its full par value of one dollar (\$1) per share.

2. Before any stock may be issued for the purpose of defraying the cost of securing the franchise from the county of Riverside, the petitioner shall submit a statement to the Railroad Commission setting forth the actual cost to it of securing said franchise and shall secure

from the Railroad Commission a supplemental order setting forth the amount of stock which applicant may issue for the purpose of defraying such cost.

3. Colorado River Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds derived from the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month shall make a verified report to the commission showing the sale and disposition of the stock herein authorized to be issued, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

4. The authority herein granted applicant to issue and sell stock shall apply only to stock issued on or before December 31, 1917.

Dated at San Francisco, California, this twenty-first day of March, 1917.

DECISION No. 4195.

IN THE MATTER OF THE APPLICATION OF CUYAMACA WATER COMPANY REQUESTING PERMISSION FOR THE RENEWAL OF A PROMISSORY NOTE.

Application No. 2759.

Decided March 21, 1917.

Applicant authorized to issue for a period of six months, its 7 per cent note of the face value of \$5,000.00, such note to be issued in renewal of a note of a like face value. Applicant permitted to renew such note at desirable periods, provided the combined terms of such renewals do not exceed a period of two years.

BY THE COMMISSION.

OPINION.

A public hearing was conducted by Myron Westover, examiner, at San Diego, March 1, 1917, on above application to issue note for \$5,000.00 at 7 per cent to San Diego Consolidated Gas and Electric Company, to be dated February 1, 1917, and payable six months after its date, in renewal of a thirty-day note for \$5,000.00 in favor of the same payee, dated December 26, 1916.

At the time the latter note was issued applicant was indebted to the payee on a note dated December 31, 1915, for \$5,493.23, given for electric energy previously purchased for operating applicant's pumps. On December 26, 1916, applicant paid on said note the sum of \$493.23 and issued the note for \$5,000.00 to cover the balance.

For information as to applicant's properties and affairs, reference is hereby made to Volume 7, Opinions and Orders of the Railroad Commission of California, page 334, and to Decision No. 4058, made and filed on January 25, 1917, in Application No. 1231.

ORDER.

James A. Murray and Ed Fletcher, copartners, doing business under the name of Cuyamaca Water Company, having applied to the Railroad Commission for authority to issue the note hereinafter described, and a public hearing having been held thereon,

It is hereby ordered by the Railroad Commission of the State of California that said James A. Murray and Ed Fletcher, copartners doing business under the name of Cuyamaca Water Company, be and they are hereby authorized and empowered to issue to San Diego Consolidated Gas and Electric Company a promissory note in the sum of \$5,000.00 to be dated February 1, 1917, payable six months after date with interest at a rate not exceeding 7 per cent per annum, payable semi-annually, and also to issue renewals of said note, provided the combined terms of all the renewals thereof do not exceed the total period of two years. The proceeds of said note or any renewal or extension thereof are to be used only for the purpose of refunding the note for \$5,000.00 payable to San Diego Consolidated Gas and Electric Company and dated December 26, 1916.

The authority herein granted is upon the following conditions:

1. Within ten days after issuing or reissuing said note, applicant shall make report in writing to the Railroad Commission stating the fact and date of issue thereof and the disposition of the proceeds as required by General Order No. 24, which order in so far as applicable is made part hereof.

2. The authority herein granted to issue said note to be dated February 1, 1917, shall apply only to such note as may be issued on or before thirty days from the date hereof.

3. This order shall not become effective until applicants have paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this twenty-first day of March, 1917.

DECISION No. 4196.

YUMA LIGHT, GAS AND WATER COMPANY

vs.

COACHELLA VALLEY ICE AND ELECTRIC COMPANY ET AL.

Case No. 1044.

Decided March 22, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above-entitled proceeding having made written request that the complaint be dismissed,

It is hereby ordered that the complaint be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this twenty-second day of March, 1917.

DECISION No. 4197.

HENRY J. GREMINGER

vs.

THE DIAMOND RIDGE DITCHES.

Case No. 994.

Decided March 22, 1917.

Complainant petitions the Commission to compel defendant company to operate a ditch which it has abandoned, so as to enable complainant and certain other prospective consumers to purchase water for irrigation purposes.

Held, Defendant is warranted in doing the reconstruction and repair work necessary to again put the ditch in question in operating condition, provided consumers advance the sum of \$200.00 towards the cost of such work, this amount to be returned in the form of credit on bills when such bills exceed the sum of \$60.00 per month.

William F. Bray, for Complainant.

T. J. Patton, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint by Henry J. Greminger, of Hank's Exchange, near Placerville, El Dorado County, against The Diamond Ridge Ditches, alleging that the defendant refuses to conduct water through a certain ditch and to supply complainant and others similarly situated with any water for irrigation purposes.

Complainant also alleges that defendant has removed a certain pipe, rendering it impossible to conduct water through the ditch, and has refused the offer of complainant to pay the established charges for water.

A public hearing in this proceeding was held at Placerville November 9, 1916.

The irrigation system operated by defendant comprises a conduit of flume and ditch about thirty-five miles in length, located in El Dorado County. The supply of water is obtained from the Cosumnes River and Camp Creek. The ditch was built about 1851 and was used for many years in mining operations, but is now used almost exclusively for irrigation.

The lateral ditch, from which the complainant desires water service, branches off from the main canal and is about three and one-half miles long. In order to give service to complainant, testimony shows that the lateral will have to be cleaned throughout its length, flumes repaired and an inverted syphon or pipe-line 486 feet long built across a small valley. A pipe-line was located at the same point for many years, but appears to have nearly reached the end of its life, when service was discontinued.

Defendant states in its answer to complainant that seasonable and proper application for water from this lateral has not been made since 1912 and, due to the impossibility of determining beforehand the amount of water that would be required and on account of the extreme shortage of water in 1913, it was unable to run water in that year; also that one of the largest water users rented or leased his property in 1914 and his tenant stated that he would not purchase any water in the future.

The testimony shows that in June, 1915, and early in 1916, complainant approached defendant's agent in regard to securing water for irrigation. When defendant's agent was approached in 1916, water to the amount of \$50.00 worth for the irrigating season was requested by complainant, it being suggested that Frank X. Walsh, whose land could be served from the same ditch, would take an additional \$30.00 worth. Other prospective consumers appeared to desire water but no definite arrangement could be made with them in regard to the amount they would take. The total amount of revenue which defendant would receive from water service along the reconstructed lateral, beyond the amounts mentioned above, has not been determined, and on account of the uncertainty in regard to this amount, we believe that the consumers should share in the risk due to the cost of rebuilding the ditch.

An estimate of the cost of cleaning the ditch, repairing the flumes and constructing the pipe-line was prepared by Milo H. Brinkley, one of the commission's engineers, and amounted to the following:

Cleaning ditch	\$140 00
Repairing flumes	25 00
Constructing 12-inch riveted steel pipe	374 00
Total	\$539 00

An alternate estimate for a 15-inch pipe-line was also presented, but the evidence shows that a 12-inch pipe has sufficient capacity for the needs of the consumers, and if a greater size is desired by defendant it should bear the cost thereof.

The complainant has offered to clean out the ditch at his own expense, but we believe that the prospective consumers should in addition be required to bear a portion of the cost of constructing the pipe-line. It is to be understood, however, that any of these expenses, borne individually by complainant or other consumers, shall be rebated on water bills when the total of such bills reach a certain amount, herein-after specified, the excess to be used in such refund. It is our opinion that a portion of the cost of the pipe-line, amounting to \$60.00, should be advanced by consumers. With this arrangement the necessary outlay by the company will be \$339.00.

The initial annual cost of providing service to consumers without apportioning any part of the expense due to the main ditch will amount to the following:

Maintenance and operation	\$20 00
Annual depreciation flume and pipe line	13 00
8 per cent interest on \$339.00	27 00
Total	\$60 00

The evidence shows that the company will receive more than this amount of revenue annually from consumers and we believe that the increase from year to year will not only be substantial, but that the revenue will, in a few years, be sufficient to bear the proper proportion of expenses for the main ditch. Any expense above the amount set out above should be used in refunding the expenses of reconstruction paid for by consumers in proportion to the individual outlay of each until such costs are extinguished.

ORDER.

Complaint having been made by Henry J. Gremenger against The Diamond Ridge Ditches, involving the service of water by said defendant to said complainant, and a public hearing having been had on said complaint, and the commission being fully advised in the premises, it is

hereby found as a fact that the revenue obtainable from water service which can be supplied to consumers along the lateral ditch involved in this complaint is not sufficient initially to compensate defendant for cost of service unless the cost of cleaning the ditch, estimated at \$140.00, and a portion of the cost of the pipe-line, amounting to \$60.00, are borne by consumers, such costs to be refunded in the manner herein provided.

It is hereby ordered by the Railroad Commission of the State of California that The Diamond Ridge Ditches do accept from consumers deposits to the amount of two hundred (200) dollars, if such deposits are offered to defendant, and shall within a period of fifteen (15) days from the acceptance of such deposits begin work on cleaning the ditch, repairing flumes and building the pipe-line and rapidly push same to completion.

It is hereby further ordered that any revenues derived from water service through the before-mentioned lateral greater than sixty (60) dollars per year shall be apportioned to consumers proportionately to the respective amounts of their deposits, until the total amount of such deposits has been paid in full.

Dated at San Francisco, California, this twenty-second day of March, 1917.

Decisions Nos. 4198 and 4199, grade crossings; not printed. See end of volume.

DECISION No. 4200.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE CREATION OF A TEN-YEAR 6 PER CENT NOTE INDEBTEDNESS, THE SECURING OF THE SAME BY TRUST INDENTURE AND THE ISSUANCE OF SAID NOTES OF THE PAR VALUE OF ONE MILLION FIVE HUNDRED AND SIXTY-FOUR THOUSAND DOLLARS.

Application No. 2711.

Decided March 23, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Good cause appearing therefor, it is hereby ordered that the first paragraph of the order in the original decision in the above-entitled matter (Decision No. 4183, dated March 16, 1917) be and the same is hereby amended to read as follows:

“Western States Gas and Electric Company having applied to the Railroad Commission for authority to create a ten-year 6 per cent note indebtedness of the face value of \$5,000,000.00, and to issue \$1,564,000.00 of notes at not less than 92 per cent of their

face value and to execute a trust agreement securing said issue, and a public hearing having been held and the commission finding that the money, property, or labor to be procured or paid for by such issue is reasonably required for the purposes hereinafter specified in this order, and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, and that for the reasons set forth in the foregoing opinion the application should be granted, subject to the conditions and modifications hereinafter set forth.”

It is hereby further ordered that all the provisions of this commission's order in the above-entitled matter dated March 16, 1917 (Decision No. 4183), shall remain in full force and effect except as modified or amended by this order.

Dated at San Francisco, California, this twenty-third day of March, 1917.

DECISION No. 4201.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY TO ISSUE NOTES.

Application No. 2748.

Decided March 26, 1917.

Applicant having a note of the face value of \$90,000.00 outstanding secured by its bonds and the joint and several indorsements of five certain individuals, applies for and is granted permission to issue in lieu thereof five notes of the face value of \$18,000.00 each, secured by \$30,000.00 face value of bonds per note and bearing individual indorsements.

Jesse H. Steinhart, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application of Oakland, Antioch and Eastern Railway for authority to issue five notes of the face value of \$18,000.00 each, bearing interest at 5 per cent per annum, due one day after date, each note to be secured by \$30,000.00 face value of first mortgage bonds of applicant.

At the present time applicant has outstanding a note to Union Trust Company of San Francisco for \$90,000.00, dated October 30, 1915, due one day after date and bearing interest at 6 per cent per annum. This note was originally issued in the principal sum of \$200,400.00. Later it was reduced to \$100,400.00, and again to \$90,000.00. (See Decision No. 2372, Volume 6, Opinions and Orders of the Railroad Commission of California, p. 724; Decision No. 2434, Volume 6, Opinions and Orders of the Railroad Commission of California, p. 1102; Decision No. 2603, Volume 7, Opinions and Orders of the Railroad Commission of Cali-

foria, p. 650). At the present time it is secured by \$150,000.00 face value of first mortgage 5 per cent sinking fund thirty-year gold bonds of Oakland, Antioch and Eastern Railway and by the joint and several endorsements of Messrs. John I. Walter, H. C. Breeden, W. Arnstein, S. Naphtaly and Henry T. Scott.

It is now proposed that the endorsers shall pay off the \$90,000.00 note and take separate notes for \$18,000.00 each, said notes to be secured by \$30,000.00 face value of first mortgage bonds. As the note now stands, any endorser may be made liable for the payment of the entire principal sum. Under the arrangement proposed, the endorsers will be relieved of this liability. As Union Trust Company of San Francisco has filed no objection to this procedure and as the granting of the application will make no essential change in the indebtedness of Oakland, Antioch and Eastern Railway other than to reduce the rate of interest upon this \$90,000.00 of note indebtedness from 6 to 5 per cent, we are of the opinion that the application herein may be granted, subject, however, to the terms of the following order:

ORDER.

Oakland, Antioch and Eastern Railway having applied to this commission for authority to issue notes and pledge bonds as stated in the foregoing opinion,

And a hearing having been held, and it appearing that the purposes for which it is proposed to issue said notes and to pledge said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be and it is hereby granted authority to issue promissory notes as follows:

Payee	Term	Principal sum	Interest, per cent
John I. Walter	1 day	\$18,000 00	5
H. C. Breeden	1 day	18,000 00	5
W. Arnstein	1 day	18,000 00	5
S. Naphtaly	1 day	18,000 00	5
Henry T. Scott	1 day	18,000 00	5

It is hereby further ordered that Oakland, Antioch and Eastern Railway be granted authority and it is hereby granted authority to pledge as collateral security for each of the notes herein authorized to be issued \$30,000.00 face value of its first mortgage 5 per cent sinking fund thirty-year gold bonds, said bonds to bear the following serial numbers:

Number 2651 to 2673, inclusive;
 Number 2801 to 2817, inclusive;
 Number 4473 to 4477, inclusive;
 Number 4501 to 4605, inclusive;

and to be pledged in such ratio that the face value of the notes at any time issued or outstanding under this order shall not be less than 60 per cent of the face value of the bonds pledged.

The authority herein granted to the applicant is granted upon the following conditions and not otherwise:

1. The notes herein authorized to be issued shall only be issued when the note in the principal sum of \$90,000.00, dated October 30, 1915, and payable to Union Trust Company of California, has been fully paid and canceled.

2. As the notes herein authorized to be issued are paid or otherwise retired, a proportionate amount of the pledged bonds shall be returned to applicant's treasury and not thereafter issued without authority from this commission.

3. Oakland, Antioch and Eastern Railway shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the commission, stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

5. The authority herein granted shall apply only to such notes as shall have been issued and such bonds as shall have been pledged on or before June 30, 1917.

Dated at San Francisco, California, this twenty-sixth day of March, 1917.

DECISION No. 4202.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE FOUR HUNDRED EIGHTY-FIVE THOUSAND FIVE HUNDRED EIGHT SHARES OF ITS COMMON STOCK OF THE PAR VALUE OF ONE DOLLAR PER SHARE.

Application No. 2604.

Decided March 27, 1917.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The Railroad Commission hereby declares that Byron A. Bearce and The Western Pacific Railroad Company have filed herein a copy of an agreement for the creation of a special trust for 250,000 shares of

common capital stock of Tidewater Southern Railway Company, as provided in the first supplemental order herein, in form satisfactory to the Railroad Commission, which copy of agreement has been marked Exhibit No. 1 on third supplemental petition.

Dated at San Francisco, California, this twenty-seventh day of March, 1917.

DECISION No. 4203.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY AND ED FLETCHER FOR AN ORDER FIXING RATES TO BE CHARGED AND COLLECTED FOR WATER FURNISHED AND TO BE FURNISHED BY THEM AND SERVICES RENDERED BY THEM IN FURNISHING, CARRYING AND CONVEYING WATER IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

Application No. 1231.

Decided March 27, 1917.

BY THE COMMISSION.

ORDER DENYING PETITION OF D. G. GORDON FOR REHEARING.

Mr. D. G. Gordon, a consumer of water from the system of James A. Murray and Ed Fletcher, petitioners herein, having filed herein a petition for rehearing on Decision No. 4058, made and filed on January 25, 1917, in the above-entitled proceeding, careful consideration having been given to the same, and no good cause appearing why a rehearing should be held,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this twenty-seventh day of March, 1917.

DECISION No. 4204.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES FOR PERMISSION TO INSTALL A GRADE CROSSING OVER THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY ON BROADWAY.

Application No. 2737.

Decided March 27, 1917.

applicant granted permission to construct a crossing at grade, sixty feet wide, across the tracks of Pacific Electric Railway Company on Broadway between One Hundred and Sixteenth and One Hundred and Seventeenth streets in the county of Los Angeles, applicant to stand all expenses of such construction.

David A. Farics, for Applicant.

Frank Karr and *E. E. Morris*, for Pacific Electric Railway Company.

Geo. H. Woodruff, for Title Insurance and Trust Company and Title Guarantee and Trust Company, trustees for syndicates owning the subdivisions.

BY THE COMMISSION.

OPINION.

Two public hearings were conducted by Myron Westover, examiner, on above application to construct Broadway at grade over the tracks of the Pacific Electric Railway between One Hundred Sixteenth and One Hundred Seventeenth streets, in South Los Angeles, a new subdivision being developed and improved south of Los Angeles.

The evidence shows that Broadway extends north and south through the center of a square tract of 160 acres which is being developed by two syndicates owning the east and west halves, respectively. The proposed crossing is near the center of the tract and in the heart of the proposed business district of the new townsite. Just east of Broadway the three tracks to be crossed form a Y, a single track to the north extending westerly to the Hawthorne and vicinity, and a double track line curving southwesterly into Moneta avenue and thence southerly and westerly to Redondo and vicinity. The terminus of one of the lines of the Los Angeles Railway system is in Moneta avenue at One Hundred Sixteenth street, just north of the Hawthorne track, and a half block north and a block west of the proposed crossing. The vicinity of the crossing is level, open country, the only obstructions to the view being a few trees east of the crossing. Part of these are to be removed, leaving only a clump in the easterly part of the triangular park adjoining Broadway on the east and extending for about three-quarters of a block east.

The subdivision is being improved with graded and surfaced streets, cement curbs, gutters and walks. The work is finished on a considerable part of the east half of the property and the work is progressing on the remainder.

Five dwellings, a grocery store, a garage and a two-story office building of hollow tile and plaster have been constructed during the last six months at a total cost of \$26,000.00 and 325 lots have been sold. The testimony shows that several lot owners have expressed an intention to construct buildings. Two families are living on the tract at present beside those engaged in grading, improving, and selling the property.

It appears that 40 families are now living on the tract adjoining on the northeast, and that 32 children from that tract attend public school

at One Hundred Twentieth street and Vermont avenue. The route to the school is south on Broadway over the proposed crossing and west on One Hundred Twentieth street to the school, about a half mile west.

Under the circumstances presented here, it appears that the present and future needs of the public justify the establishment of the crossing under the conditions found in the order.

ORDER.

The board of supervisors of the county of Los Angeles having applied to the Railroad Commission for authority to construct and maintain a public highway crossing at grade over the right of way and tracks of the Pacific Electric Railway Company at the point where Broadway crosses said tracks between One Hundred Sixteenth and One Hundred Seventeenth streets in Los Angeles County, south of Los Angeles, said proposed crossing being shown in detail on the plat attached to the petition, and a public hearing having been held upon said application and it appearing that public convenience requires the establishment of such a crossing,

It is hereby ordered by the Railroad Commission of the state of California that permission be and it is hereby granted to the board of supervisors of Los Angeles County to construct a public highway crossing 60 feet wide at grade over the tracks of Pacific Electric Railway Company at a point where Broadway crosses said tracks between One Hundred Sixteenth and One Hundred Seventeenth streets in the county of Los Angeles, as shown upon plat attached to and filed with the application herein.

The authority hereby granted is upon the following conditions:

(1) The entire expense of constructing the crossing shall be borne by applicant.

(2) The expense of maintaining the crossing up to a line two (2) feet outside the rails of the Pacific Electric Railway Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a line two feet outside thereof shall be borne by the Pacific Electric Railway Company.

(3) The crossing shall be constructed of a width of not less than 60 feet, with grades of approach not exceeding four (4) per cent, shall be protected by suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) The trees on the block bounded by the right of way of the Pacific Electric Company, Spring street, Victoria street and Broadway shall be removed by the applicant.

(5) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and

protection of said crossing as it may seem right and proper, and to revoke its permission if in its judgment the public convenience and necessity demand such action.

Dated at San Francisco, California, this twenty-seventh day of March, 1917.

DECISION No. 4205.
P. J. MURRY ET AL.
VS.
REDONDO WATER COMPANY.

Case No. 979.

Decided March 27, 1917.

1. A charge of \$2,000.00 annually for the use of not more than 50 standard fire hydrants and 105 two-inch pipe hydrants is not an unreasonable amount to be paid by a municipality for fire protection, including all water used for fires, especially when to decrease such rate, domestic rates, already sufficiently high, would have to be increased.
2. When a firm, consuming a large quantity of water, is controlled by the same interests operating the local water distributing company, the latter company can not give such large consumer a more favorable rate than the schedule established for other consumers of a like nature.
3. Revised schedule of rates established to become effective April 1, 1917: Monthly minimum ranging from \$1.00 for $\frac{3}{4}$ -inch service to \$3.00 for 2-inch service or larger. First 400 cubic feet, 25 cents per 100; 400 to 1,000 cubic feet, 20 cents per 100; 1,000 to 2,000 cubic feet, $17\frac{1}{2}$ cents per 100; over 2,000 cubic feet, 15 cents per 100; municipal rates, 15 cents per 100 cubic feet; fire service, \$2,000.00 per year with an added charge of \$1.50 for each additional standard fire hydrant over 50.

Harry Polglase, for Complainants.

Gibson, Dunn & Crutcher, by S. M. Haskins, for Defendant.

F. L. Perry, for city of Redondo.

LOVELAND, Commissioner.

OPINION ON FURTHER HEARING.

This commission on January 11, 1917, made its order in the above-entitled complaint, providing among other things certain modifications of the rate schedule being charged consumers of water delivered by Redondo Water Company.

In the opinion, preceding the order, there is set forth the return to which defendant company is entitled in view of the extent of its property and the expenses being incurred, all this being supported by the testimony presented before the commission in public hearing. Attention was called by the commission to the difficulty encountered in estimating the effect of any schedule of meter rates at this time,

due to the fact that meters have only recently been installed upon the majority of the services. The new schedule of rates was to become effective on February 1, 1917, but before any bills had been sent out, this commission on February 6 reopened the case for further testimony, basing such action upon information received both from the defendant and from various customers.

A further hearing was held on February 23, 1917.

It was shown at the hearing that a large number of the service connections of one-inch diameter and less, had thereon installed the regulation $\frac{3}{4}$ -inch meter. The scale of minimum monthly payments, varying according to the size of the connection, would consequently place an inequitable burden upon a customer whose premises were furnished water through a service pipe larger than the domestic use required. The size of the meter appears to be a better criterion of the nature of the service and it will be so provided in the order herewith.

Complaint was made by several consumers as to the quantity of water allowed for the minimum monthly payment, the 300 cubic feet being considered too low for the ordinary use of a family with lawn or flowers around the premises. Therein, again, is shown the difficulty of projecting for the future an estimate of the relative demands of the various water users. Meter records for the past eight months are now in testimony and show that 25 per cent of all the bills sent out by Redondo Water Company fell below a monthly use of 300 cubic feet, and that 35 per cent of all bills did not show a use over 400 cubic feet per month. Upon reconsidering the conditions of soil and climate in Redondo and the record of use, I am now inclined to suggest that 400 cubic feet be allowed for the minimum payment.

Testimony was introduced by defendant's engineer as to the effect upon water use through adjustment of the number of cubic feet allowed under the minimum. Records of four calendar months, one year apart, showing distribution of use at Belvedere, Los Angeles County, before and after the present schedule of rates became effective, were presented as exhibits and the deduction made that the use of water is influenced by the quantity allowed under the minimum payment. The differences shown, however, are much more noticeable during the first month of comparison than thereafter, which may reasonably be interpreted in two ways: First, that the tendency to curtail use and stay below the minimum quantity allowed was gradually overcome with a return to normal conditions; or second, that the use during winter months is for the purely domestic demands of a family, which demands, in a given community, will remain fairly constant and little difference would exist between records of consecutive years. The sandy condition of the soil at Redondo leads me to

infer that the minimum use throughout the year will run higher than in communities where the soil is of clay and comparatively harder to cultivate. I, therefore, do not anticipate any serious diminution of use of water following the installation of the revised schedule, which I will set out in the order herewith.

City of Redondo, heretofore not a party, appeared at this further hearing, protesting against the sum of \$2,000.00 fixed by this commission as the amount properly to be borne by the municipality in return for service furnished in the way of protection against fire. It was stated that 24 standard fire hydrants were installed at the expense of the city under an agreement dated in 1912. The utility installed 12 hydrants at its own expense, making a total of 36 standard fire hydrants installed for which defendant utility has received about \$648.00 per annum. No charge has been made for the use of 105 two-inch pipe hydrants, scattered miscellaneously about the city. Counsel for the municipality set up the plea that the revenues of the city will materially decrease after August 1 of this year due to certain laws controlling the liquor business and that the addition of a sum to make up a payment of \$2,000.00 annually would be difficult to bear.

Investigation and careful analysis of situations similar to that comprehended in this case have led the commission to the conclusion that in the matter of an equitable distribution of total charges the consumers have frequently borne more than their proper share, and to the further conclusion that the charge to municipalities should be based upon the service rather than upon the number of hydrants installed. I do not feel inclined to reduce the amount of \$2,000.00 as specified in the previous order, inasmuch as a reduction therein would add to the domestic rates which are already about as high as reasonably can be permitted. Further general reasons for adjusting fire hydrant rentals have been fully covered by this commission in its Decision No. 3580, in the case of *M. M. Eshelman et al. vs. Title Guarantee and Trust Company* (Case 864), to which reference is hereby made.

The Redondo Water Company and the Redondo Bath House are owned by the same interests. The bath house has heretofore paid a uniform rate of $7\frac{1}{2}$ cents per one hundred cubic feet, or approximately \$33.00 per month. The commission finds this rate unreasonably low and the rates herein established just and reasonable for the use in question.

It is understood that if upon the conclusion of one year of the normal operation of this system, defendant company or consumers find that the schedule of rates now established returns more or less revenue than this commission has found to be proper, the matter may again be brought up upon formal application or complaint, as the

case may be, and the commission will proceed to make such proper modification as may then be warranted.

Upon reconsideration of all the evidence now before me, the original order will be amended as hereinafter set forth.

ORDER.

It is hereby ordered by the Railroad Commission of the state of California, that the schedule of rates to be charged by Redondo Water Company, as established by Decision No. 4002, be and it is hereby so amended that it will read as follows, to wit:

It is hereby ordered that Redondo Water Company be and it is hereby directed to establish and file with the Railroad Commission the following schedule of rates, said rates to be effective on and after April 1, 1917:

Flat rates, where continued, as heretofore in effect.

Meter rates.

(a) Monthly minimum charges for each connection:

Not exceeding $\frac{1}{2}$ -inch service and $\frac{1}{2}$ -inch meter	\$1 00
For 1-inch service and larger than $\frac{1}{2}$ -inch meter	1 25
For $1\frac{1}{2}$ -inch service and larger than $\frac{1}{2}$ -inch meter	1 75
For 2-inch service or larger	3 00

(b) For water used in any month:

Between 0 and 400 cubic feet, 25 cents per 100 cubic feet.
Between 400 and 1,000 cubic feet, 20 cents per 100 cubic feet.
Between 1,000 and 2,000 cubic feet, $17\frac{1}{2}$ cents per 100 cubic feet.
Use above 2,000 cubic feet, 15 cents per 100 cubic feet.

(c) *Municipal rates.*

15 cents per 100 cubic feet for public use, including sprinkling charges, and flushing sewers and streets.
\$2,000 per year for fire protection, including water used for fires, said payment to be for not more than 50 standard fire hydrants and all pipe hydrants.
\$1.50 per month for each additional fire hydrant over 50.

It is hereby further ordered that services and meters are to be installed as applied for by consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of March, 1917.

DECISION No. 4206.

IN THE MATTER OF THE APPLICATION OF THE SAN JOSE RAILROADS FOR AUTHORITY TO SELL AND THE SOUTHERN PACIFIC COMPANY TO PURCHASE FIRST AND REFUNDING MORTGAGE 4 PER CENT FORTY-YEAR GOLD BONDS OF THE SAN JOSE AND SANTA CLARA COUNTY RAILROAD COMPANY OF THE AGGREGATE PAR VALUE OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 2773.

Decided March 27, 1917.

BY THE COMMISSION.

ORDER.

The petitioners herein having made written application to the Railroad Commission that this application be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-seventh day of March, 1917.

DECISION No. 4207.

IN THE MATTER OF THE APPLICATION OF FRESNO CITY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS IN THE AMOUNT OF FIFTY-SEVEN THOUSAND DOLLARS.

Application No. 2798.

Decided March 31, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the matter entitled as above having made written request that the application be dismissed,

It is hereby ordered that this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4208.

IN THE MATTER OF THE APPLICATION OF THE CORCORAN WATER
AND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE
OF BONDS.

Application No. 2789.*Decided March 31, 1917.*

Applicant authorized to execute a mortgage securing an issue of \$15,000.00 face value of bonds and to issue thereunder \$10,000.00 face value to be sold at not less than 91, proceeds to be used for additions and betterments to plant.

BY THE COMMISSION.

OPINION.

This is an application by Corcoran Water and Gas Company, a corporation engaged in furnishing water to the inhabitants of the city of Corcoran, Kings County, for authority to create a bonded indebtedness of \$15,000.00 of first mortgage 6 per cent gold bonds, and to issue and sell forthwith \$10,000.00 face value of said bonds, and to issue the remaining \$5,000.00 face value of said bonds whenever it shall be found by its board of directors that additional funds are required for other expenses and improvements of its facilities and service.

A public hearing was held in San Francisco March 12, 1917, before Examiner Baneroft.

On April 1, 1916, this commission in Case No. 915, brought by the city of Corcoran against the applicant herein (Decision No. 3222, reported in Vol. 9, Opinions and Orders of the Railroad Commission of California, page 475) ordered said water company to install a 60,000-gallon tank upon an 80-foot tower and to put the same into service as a part of its water system.

Thereafter, in order to finance the installation of said tank and certain other improvements to said system, the water company applied to this commission for authority to create a bonded indebtedness of \$15,000.00, and to issue at that time \$10,000.00 face value of said bonds, which were to mature from 1918 to 1924, inclusive.

On August 31, 1916, the commission by its Decision No. 3606 duly granted applicant permission to create its bonded indebtedness and to issue the \$10,000.00 face value of bonds as requested on condition that applicant should submit to this commission its proposed mortgage or deed of trust and should not execute the same or issue any bonds thereunder until the commission had, by a supplemental order, approved the same; and on January 20, 1917, by Decision No. 4035, this commission duly made its supplemental order approving the proposed deed of trust.

No bonds were ever issued by applicant, however, it appearing that certain defects existed in connection with the proceedings taken by

applicant for the creation of its bonded indebtedness, which rendered it necessary in applicant's opinion to undertake anew the creation of a bonded indebtedness. Having now taken such steps applicant has filed the above application and has submitted a draft of a new deed of trust. The new proposed deed of trust, to Title Insurance and Trust Company (of Los Angeles) as trustee, contains among others the following provisions:

The total bond issue shall be of the face value of \$15,000.00, consisting of 30 first mortgage serial gold bonds of \$500.00 each, dated April 1, 1917, and maturing as follows: Two bonds on the first of each April from 1919 to 1922, inclusive; four bonds on the first of each April from 1923 to 1925, inclusive; and five bonds on April 1, 1926, and five bonds on April 1, 1927. These bonds are to be callable at 102½ and accrued interest. Provision is made for action in case of default in interest, in principal or in any other covenant, by the trustees, either upon its own initiative or upon the written request of the holders of a majority in amount of the outstanding bonds. No sinking fund is provided in said proposed deed of trust.

The conditions are substantially the same now as they were when the commission, by Decision No. 3606 (supra) granted the water company's former application, and for the reasons set forth in said decision, we are of the opinion that this application should be granted as to the creation of the bonded indebtedness and as to the issue at this time of \$10,000.00 face value of said bonds. We are not prepared, however, to authorize the issue in the future of the remaining \$5,000.00 face value of said bonds. Any such authorization at this time would be premature.

As a condition precedent to the granting of this application, the commission will, of course, annul all authorizations granted under Application No. 2390.

ORDER.

Corcoran Water and Gas Company having applied to the Railroad Commission for authority to create a bonded indebtedness of \$15,000.00 as evidenced by 30 serial 6 per cent first mortgage gold bonds of the face value of \$500.00 each, and to issue and sell at this time \$10,000.00 of said bonds, and a public hearing having been held, and this commission finding that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in this order, and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted subject to the conditions hereinafter set forth,

It is hereby ordered that Corcoran Water and Gas Company be and the same is hereby authorized to execute to Title Insurance and Trust Company a mortgage or deed of trust of all its properties to secure a

bonded indebtedness of \$15,000.00 face value evidenced by 30 serial 6 per cent first mortgage gold bonds of the face value of \$500.00 each.

It is hereby further ordered that Corcoran Water and Gas Company be and the same is hereby authorized to issue and sell \$10,000.00 face value of said bonds.

The authority herein granted to execute and mortgage its properties and to issue \$10,000.00 face value of its bonds is granted upon the following conditions and not otherwise:

1. Corcoran Water and Gas Company shall issue said bonds so as to net said company not less than 91 per cent of the face value of the principal thereof in addition to accrued interest thereon.

2. The proceeds of the bonds herein authorized to be issued shall be applied substantially as follows:

Installing 50,000-gallon tank and 80-foot tower-----	\$3,835 00
Foundation for same-----	300 00
Readjustment of pumping equipment-----	600 00
Mains (1,000 feet 8-inch; 2,000 feet 6-inch; 4,000 feet 4-inch)-----	2,533 76
Laying mains-----	800 00
Fittings-----	531 24
To be held in applicant's treasury and not to be expended except upon a further order of this commission-----	500 00
Total-----	\$9,100 00

3. The deed of trust herein authorized to be executed shall conform substantially in words and figures with the draft of the proposed deed of trust filed with the above entitled application, and annexed thereto, and designated as "Exhibit C," as the same has been amended by applicant's supplemental petition, dated March 19, 1917.

4. The approval herein given to the proposed mortgage or deed of trust securing the bond issue is for the purposes of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which it may be subject.

5. The authority herein granted to execute the mortgage or deed of trust above mentioned and to issue the bonds above set forth shall apply only to such mortgage or deed of trust as shall have been executed and to such bonds as shall have been issued on or before August 31, 1917.

6. Applicant shall not issue any of the 20 bonds herein authorized to be issued and sold until it shall have a valid contract or contracts for the sale of all of said bonds.

7. Applicant shall report to this commission within thirty (30) days after the issue of the bonds herein authorized the face value of the bonds so issued, the net amounts received therefor and the disposition of the proceeds thereof, all in accordance with this commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

8. This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4209.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES
GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE BONDS.

Application No. 2542.

Decided March 31, 1917.

Supplemental order authorizing the issue of \$57,500.00 face value of bonds, being a portion of a total issue of \$285,000.00 heretofore authorized, such bonds to be sold at not less than 92½, proceeds to be used for the purpose of reimbursing applicant's treasury covering expenditures made for additions and betterments as listed by applicant.

Hunsaker & Britt and LeRoy M. Edwards, by LeRoy M. Edwards, for Applicants.

LOVELAND, *Commissioner.*

FIFTH SUPPLEMENTAL ORDER.

Whereas by Decision No. 3748, dated October 2, 1916, this commission authorized Southern Counties Gas Company of California to issue \$370,000.00 face value of its first mortgage 5½ per cent bonds, due and payable May 1, 1936; and

Whereas said decision No. 3748 authorized applicant to issue forthwith \$85,000.00 of said \$370,000.00 face value of bonds; and

Whereas said Decision No. 3748 further provides that \$285,000.00 of said \$370,000.00 face value of bonds shall be issued only upon supplemental orders from this commission for the purpose of providing funds to pay 80 per cent of the cost of applicant's proposed extensions and improvements from August 31, 1916, to July 31, 1917; and

Whereas this commission has heretofore authorized applicant to issue \$169,000.00 of the aforesaid \$285,000.00 face value of bonds, leaving bonds in the amount of \$116,000.00 unissued; and

Whereas applicant reports to the commission that during the months of September, October, November, and December, 1916, and January and February, 1917, it has expended for permanent extensions and improvements the sum of \$283,175.69 against which it is entitled to issue bonds in the amount of \$226,500.00; and

Whereas in the fifth supplemental application now pending before the commission applicant reports that during January, 1917, it has expended for permanent extensions and improvements the sum of \$34,120.60; and

Whereas in the sixth supplemental application now pending before the commission applicant reports that during February, 1917, it has expended for permanent extensions and improvements the sum of \$37,330.71; and

Whereas applicant in said fifth supplemental application asks authority to issue bonds in the amount of \$27,500.00 and in said sixth supplemental application bonds in the amount of \$30,000.00, making a total of \$57,500.00; and

Whereas applicant has satisfied the earning requirements of its deed of trust in that its net earnings for the twelve months ending January 31, 1917, and February 28, 1917, respectively, exceed one and one-half times the annual interest on bonds now outstanding, plus the interest on bonds proposed to be issued; and

A hearing having been held, and it appearing to this commission that applicant's requests are reasonable and should be granted and that the purposes for which it is proposed to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern Counties Gas Company of California be and it is hereby granted authority to issue \$57,500.00 face value of its first mortgage $5\frac{1}{2}$ per cent twenty-year bonds, said bonds being a part of said \$285,000.00 face value of bonds to which reference is made in Decision No. 3748, dated October 2, 1916, and in the third paragraph of this fifth supplemental order.

The authority herein granted to issue said \$57,500.00 face value of bonds is granted upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall be sold so as to net applicant not less than $92\frac{1}{2}$ per cent of their face value, plus accrued interest, in cash.

2. The proceeds derived from the sale of said \$57,500.00 face value of bonds shall be used to reimburse applicant for expenditures for additions and betterments; the moneys to be applied upon applicant's notes and accounts payable as reported to this commission in exhibits Nos. 2 and 3, filed on March 24, 1917, *in re* fifth and sixth supplemental applications under application No. 2542.

3. Southern Counties Gas Company of California shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions

of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payments by applicant of the fee prescribed in the Public Utilities Act.

5. The bonds herein authorized to be issued shall be issued on or before August 15, 1917.

The foregoing fifth supplemental order is hereby approved and ordered filed as the fifth supplemental order of the Railroad Commission of the State of California in the above-entitled proceeding.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4210.

THE MERCHANTS ASSOCIATION OF LANCASTER

vs.

THE ANTELOPE VALLEY TELEPHONE COMPANY.

Case No. 1045.

Decided March 31, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above proceeding having advised that the complaint had been fully satisfied and having requested that the complaint be dismissed,

It is hereby ordered that the complaint in said proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4211.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided March 31, 1917.

BY THE COMMISSION.

SIXTEENTH SUPPLEMENTAL ORDER.

Whereas this commission by Decision No. 2726, dated August 31, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission of California,

page 923), authorized the delivery to Western States Gas and Electric Company of \$182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2150, dated June 30, 1915 (Vol. 7), Opinions and Orders of the Railroad Commission of California, page 485), provided that Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of \$182,000.00 in cash, said \$182,000.00 so deposited with the trustee to be withdrawn by the applicant from time to time in accordance with the order of this commission permitting the withdrawal; and

Whereas applicant reports that under its deed of trust it can issue bonds only to pay for 75 per cent of the cost of extensions, additions and betterments; and

Whereas heretofore the commission has granted applicant herein authority to withdraw from said \$182,000.00, deposited with the trustee the sum of \$180,552.00, leaving \$1,448.00 on deposit with said Girard Trust Company; and

Whereas applicant herein reports in a statement filed March 13, 1917, that it has expended from August 1, 1916, to August 31, 1916, both dates inclusive, the sum of \$34,098.11 for extensions, additions and betterments to its plant; and

Whereas applicant herein asks authority to withdraw from the aforesaid fund remaining on deposit with the trustee, the balance of \$1,448.00 representing 75 per cent of \$1,930.66 expended for extensions, additions and betterments installed during the month of August, 1916; and good cause appearing,

It is hereby ordered that Western States Gas & Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company the sum of \$1,448.00, being the balance of the amount deposited with the trustee in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2150, dated June 30, 1915, as amended by the supplemental orders thereto, shall remain in full force and effect except as it may be modified by this sixteenth supplemental order.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4212.

IN THE MATTER OF THE APPLICATION OF DAMON COOLEY AND
VERNON K. MCMAINS FOR CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY.

Application No. 2805.

Decided March 31, 1917.

Applicants granted a certificate permitting the construction and operation of an electrical generating and distributing system for the purposes of furnishing electrical energy to consumers in the summer colony known as Big Bear Lake, San Bernardino County.

Leonard, Surr & Hellyer, for Applicants.

BY THE COMMISSION.

OPINION.

A public hearing was conducted by Myron Westover, examiner, upon above application for certificate that public convenience and necessity require the establishment of a plant to serve electric current for domestic uses to the summer colony on the shores of Big Bear Lake, which lies upon a tableland in the San Bernardino Mountains, San Bernardino County, at an elevation of about 7,000 feet.

The community to be served consists of about 200 privately-owned cabins, and about 120 cabins maintained by the three summer resorts, Pine Knot, Knight's and Eureka Camp, all on private lands. The summer population is about one thousand.

A new subdivision is also being platted at the northwest point of the lake, about six miles by land from the proposed power plant. Applicants do not desire to extend service to said subdivision at present.

It is proposed to operate the plant during the camping season of about four months in the summer. The right of way over private lands has been offered free. Applicants report that the service is very much desired by campers and that a number of applications for service have been received, several since the notice of the hearing was published. The nearest line now in existence from which service can be had is that of Southern California Edison Company in Santa Ana Canyon, about ten miles to the west.

The plant and system as proposed will consist of a 25-horsepower engine of the semi-Diesel type, generating power from crude oil, estimated to cost set up \$1,400.00; and a 50-kilowatt, 2,400-volt, 3-phase generator estimated to cost set up \$1,300.00; switchboard installed about \$500.00, and two miles of line consisting of No. 8 iron wire on native poles spaced 35 poles per mile, estimated to cost \$400.00 per mile, or \$800.00. Applicants also estimate that between 125 and 160 services will be required at a cost of \$4.00 or \$5.00 each.

Applicants estimate that they will furnish current for about 240 lamps the first season. They propose to establish a rate of \$2.00 per 50-watt lamp per month with possible reduction if several additional lamps can be supplied from a single service. Applicants say that rate seems to be satisfactory to the community, as several of the prospective consumers have suggested it.

Applicants are prepared to finance the construction from their own means and do not expect to finance the enterprise with the aid of the public. Applicants will, of course, be subject to regulation by the commission in all matters with reference to the extent and duration of service.

ORDER.

Damon Cooley and Vernon K. McMains having applied to the Railroad Commission for certificate that public convenience and necessity require the service of electrical energy as hereinafter described, and a public hearing having been held on said application, the matter being submitted and it appearing that no public franchise will be required, the Railroad Commission of the state of California hereby certifies that the present or future public convenience and necessity require or will require the construction, maintenance and operation of a plant and distributing system for furnishing electrical energy by Damon Cooley and Vernon K. McMains to the inhabitants of that portion of San Bernardino County living in the vicinity of Big Bear Lake in the San Bernardino Mountains.

The authority hereby granted shall extend only to any plant and system, the construction of which shall have been actually commenced within three months from the date hereof and prosecuted to completion with reasonable diligence.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4213.

IN THE MATTER OF THE APPLICATION OF CORCORAN WATER AND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2390.

Decided March 31, 1917.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas Corcoran Water and Gas Company has filed with this commission a new application for authority to create a bonded indebtedness

and to issue bonds thereunder, which new application is numbered 2789; and

Whereas in said new application Corcoran Water and Gas Company has requested that both the original and the supplemental order in the above-entitled matter be set aside and annulled,

It is hereby ordered that all authority heretofore granted to applicant in the original order in the above-entitled matter, under Decision No. 3606, or in the first supplemental order in the above-entitled matter, under Decision No. 4035, be and the same is hereby annulled and canceled.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4214.

IN THE MATTER OF THE APPLICATION OF PASADENA CONSOLIDATED WATER COMPANY FOR PERMISSION TO RENEW CERTAIN OUTSTANDING NOTES.

Application No. 2772.

Decided March 31, 1917.

Applicant authorized to issue at par notes of an aggregate face value of \$22,200.00, such notes to be issued for any period or periods, provided the aggregate time does not exceed two years. Proceeds to be used for the purposes of discharging a like face value of notes now outstanding.

J. B. Coulston, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was conducted by Myron Westover, examiner, upon above application to issue notes aggregating \$22,200.00 and use the proceeds to refund notes now outstanding aggregating the same amount.

Applicant supplies water for irrigation to about 1,000 acres adjoining Pasadena, Los Angeles County, on the east, about 200 acres of which is actually irrigated, and water for domestic use to about 270 consumers, four-fifths of whom are located within the limits of the city of Pasadena. Its principal supply of water is obtained from Precipice Canyon Water Company, a mutual organization, of which applicant owns 7,011 shares of the total of 12,500 shares issued. The notes which applicant now wishes to refund were issued in connection with the acquisition of this stock.

The evidence presented at the hearing and in applicant's annual reports shows that it is enjoying a steady growth and is in satisfactory

financial condition. There appears to be no reason why the application should not be granted.

ORDER.

Pasadena Consolidated Water Company, a corporation, having applied to the Railroad Commission for authority to issue notes described herein, and a public hearing having been held on said application, and it appearing to the commission that there is no objection to granting the application, and that proceeds of the notes sought to be refunded were used for capital purposes and that the money to be procured by the issue of notes authorized herein is reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pasadena Consolidated Water Company be and it is hereby authorized and empowered to issue at par, without discount or commission, notes to be dated March 1, 1917, bearing interest at a rate not exceeding 6 per cent per annum, in favor of payees and in amounts as follows:

National Bank of Pasadena.....	\$14,700 00
John Lambert	2,500 00
John Lambert	5,000 00
	<hr/>
	\$22,200 00

Said notes may be made payable at definite times or periods, or on or before definite times or periods, and may be reissued or renewed from time to time provided the aggregate term for which said notes are issued with the renewals and extensions thereof shall not exceed the aggregate term of two years from March 1, 1917.

The proceeds of the notes herein authorized to be issued shall be used to refund notes described as follows:

Payee	Date	Maturity	Amount
American Bank and Trust Company.....	Mar. 5, 1912	One year	\$5,000 00
South Pasadena Savings Bank.....	Mar. 5, 1912	Demand	7,500 00
Crown City National Bank.....	Dec. 31, 1913	Demand	5,000 00
Crown City National Bank.....	Dec. 31, 1913	Demand	1,500 00
Crown City National Bank.....	Dec. 31, 1913	Demand	1,200 00
National Bank of Pasadena.....	Mar. 24, 1915	60 days	2,000 00
			<hr/>
			\$22,200 00

The authority herein granted is upon the following conditions:

1. The authority herein granted shall extend only to such note or notes as may be issued on or before thirty days from date hereof.
2. Within twenty days after the issue of any such notes applicant shall report to the commission in writing the facts and dates of issue

thereof and show application of proceeds thereof, as required by General Order No. 24, which in so far as applicable is made part of this order.

3. This order shall not become effective until applicant has paid the fee specified in the Public Utilities Act.

Dated at San Francisco, California, this thirty-first day of March, 1917.

Decisions Nos. 4215 and 4216, grade crossings; not printed. See end of volume.

DECISION No. 4217.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY FOR AN ORDER CONSENTING TO THE CLOSING OF WADE STATION AND THE OPENING OF FONTANA STATION IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA.

Application No. 2729.

Decided March 31, 1917.

BY THE COMMISSION.

ORDER.

The Atchison, Topeka and Santa Fe Railway Company having made application for authority to close its station at Wade on the Los Angeles division and move the station building to Fontana, a distance of approximately three and one-half ($3\frac{1}{2}$) miles easterly, to afford facilities for the public at the station of Fontana; an inspection having been made and the commission being of the opinion that the traveling public will be more adequately served by the proposed change and that a public hearing is not necessary, and that the application should be granted,

It is hereby ordered, that this application be and the same is hereby granted.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4218.
PACIFIC GAS AND ELECTRIC COMPANY
vs.
GREAT WESTERN POWER COMPANY.
Case No. 1034.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, FOR THE CONSTRUCTION OF A SUBSTATION AND SERVICE OF ELECTRIC ENERGY TO THE FARM LANDS INVESTMENT COMPANY, IN THE COUNTY OF YUBA.

Application No. 2734.

Decided March 31, 1917.

Complainant alleges that defendant, an electric utility, is invading certain of its territory and accordingly petitions the commission to compel said defendant to discontinue the construction of a substation and distributing lines in Yuba County.

1. The power plants of Farm Lands Investment Company, which the Great Western Company proposes to serve, are located approximately one mile from the smaller distributing lines of Pacific company and must be considered as being in open territory. Complaint dismissed.
2. Great Western Power Company granted a certificate permitting the construction of a substation near the town of Arboga and the delivery of electric energy to the Farm Lands Investment Company, provided the former company acquire the distributing lines of the latter and operate them as part of its public utility system.

Charles P. Cullen, for Pacific Gas and Electric Company.

Guy C. Earl and Chaffee E. Hall, for Great Western Power Company.

EDGERTON, Commissioner.

OPINION.

In Case No. 1034, Pacific Gas and Electric Company complains against Great Western Power Company, alleging that the latter company is invading certain territory in Yuba County which said territory is now being adequately served by the former. The prayer is that Great Western Power Company be ordered to stop construction of a distribution line and a substation in said county, and that it be declared by this commission that neither the present nor future public convenience and necessity require or will require the construction by said Great Western Power Company of its said distribution line or its substation.

In Application No. 2734 Great Western Power Company asks for an order authorizing applicant to construct said substation and upon its completion to deliver energy therefrom to the lines of the Farms Lands Investment Company.

These two proceedings involve the same subject matter and therefore were consolidated for hearing and decision.

It appears that Pacific Gas and Electric Company has for several years maintained and operated a high tension transmission line through a portion of Yuba County with a distribution line leading therefrom, which latter serves a farming community located east of the Feather River and west of the right of way of the Western Pacific Railroad Company and adjacent to the unincorporated town of Arboga.

Great Western Power Company for some years past has maintained and operated a high tension transmission line running through the county of Yuba, but has not delivered any energy in said county from said line. This line runs a short distance to the east of the unincorporated town of Arboga.

Farm Lands Investment Company is a nonpublic utility corporation which owns a large part of the land in the district involved in these proceedings. This latter company has recently installed three pumping plants located on its lands, designed to pump water to be delivered into ditches and supplied to the purchasers of its lands. It has now about completed the construction of electric transmission lines to connect with the substation to be erected by Great Western Power Company east of its high tension transmission line, opposite the town of Arboga. It is the purpose of Farm Lands Investment Company to take electric service from Great Western Power Company and convey this service over its own lines to its pumping plants, and it is stated by representatives of this company that ultimately it is intended to have the purchasers of property from it own these electric lines and the pumping stations in a mutual capacity.

The stock of Farm Lands Investment Company is largely owned and controlled by officers of Great Western Power Company, and it is frankly stated by the representatives of Farm Lands Investment Company that it prefers for this reason to take service from Great Western Power Company rather than Pacific Gas and Electric Company. No application was made by Farm Lands Investment Company to Pacific Gas and Electric Company for service.

The evidence shows that the rates and the service obtainable from both of the electric companies is approximately the same. It is true that at the hearing Pacific Gas and Electric Company offered to build the lines for the Farm Lands Investment Company.

Great Western Power Company insists that Farm Lands Investment Company is a separate corporation and that while it, the power company, is actually constructing the lines to these power plants, this is being done under a contract with the Farm Lands Investment Company to reimburse it for all expenditures made therefor, and that all the Great Western Power Company intends doing is to erect a substation adjacent to its high tension transmission line, from which substation it will deliver electric service to Farm Lands Investment Company.

I believe that it will be necessary in the consideration of this matter to disregard any relation between the Farm Lands Investment Company and Great Western Power Company, or the stockholders of either.

If it were held by this commission that the relations between Farm Lands Investment Company and Great Western Power Company are such as to, in effect, constitute them one entity, then Farm Lands Investment Company would immediately become a public utility and the mutualization of the lines which it is building would become impossible.

Furthermore, it would be necessary to hold that Farm Lands Investment Company must give service to consumers who apply therefor, and it would become indeed a competitor of Pacific Gas and Electric Company in this territory. On the other hand, if we look upon Farm Lands Investment Company as a separate corporation we can then consider it merely as a consumer building its own lines to a certain point at which it is to take electric service.

I do not believe it possible for the commission in this proceeding to hold that the pumping plants designed to be served by the lines of Farm Lands Investment Company are within the territory now being served by Pacific Gas and Electric Company. The fact is that these pumping plants are roughly about one mile from the small distributing lines of the Pacific Gas and Electric Company and the evidence justifies the conclusion that the territory embraced in these proceedings is open territory.

I believe, therefore, that the complaint should be dismissed and that the application of Great Western Power Company should be granted authorizing the construction and maintenance of a substation adjacent to the town of Arboga, at which substation it be permitted to deliver electric service to Farm Lands Investment Company.

However, I believe it is against public policy that the lines of the Farm Lands Investment Company be retained in private ownership so as to avoid giving service therefrom to other consumers, therefore I recommend that as a condition subsequent, Great Western Power Company be required to acquire and operate the electric lines of Farm Lands Investment Company within a period of thirty days from the date of this order.

Herewith form of order:

ORDER.

Complaint having been made by Pacific Gas and Electric Company against Great Western Power Company, and application having been made by Great Western Power Company for an order declaring that public convenience and necessity require the construction of a substation near the town of Arboga, in Yuba County, and the delivery of

energy therefrom to the lines of Farm Lands Investment Company, and said complaint and application having been consolidated for hearing and decision, and public hearing having been had, and the commission being fully apprised in the premises.

It is hereby ordered by the Railroad Commission of the State of California,

1. That Complaint No. 1034 be and the same is hereby dismissed.

2. That the application of Great Western Power Company is hereby granted and it is hereby declared by the Railroad Commission of the State of California that public convenience and necessity require and will require that said Great Western Power Company construct and maintain a substation at a point about one-half mile east of the town of Arboga, and upon the completion of said substation deliver energy therefrom to Farm Lands Investment Company.

Provided that this order is made upon the condition subsequent, that, within a period of thirty days from the date of this order Great Western Power Company shall acquire and operate the electric lines of Farm Lands Investment Company, such acquisition to be on terms agreed upon between the parties and submitted for the approval of the commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4219.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING SAID COMPANY TO INSTALL LIGHTING SYSTEM IN THE CITY OF TULARE, AUTHORIZING THE ISSUANCE OF PREFERRED OR COMMON STOCK; AUTHORIZING SAID COMPANY TO ENTER INTO A CONTRACT WITH THE CITY OF TULARE FOR THE FURNISHING OF GAS SERVICE; AND FOR AN ORDER THAT SUPPLEMENTAL ORDERS WILL HEREAFTER ISSUE AUTHORIZING THE ADDITION OF UNITS TO SAID STREET LIGHTING SYSTEM.

Application No. 2490.

Decided March 31, 1917.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above-entitled matter having, on March 29, 1917, made written request that this proceeding be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this thirty-first day of March, 1917.

DECISION No. 4220.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR AN ORDER THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER A FRANCHISE GRANTED BY THE BOARD OF SUPERVISORS OF TRINITY COUNTY.

Application No. 2611.

Decided March 31, 1917.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Northern California Power Company having on March 28 filed with this commission a stipulation in accordance with the order heretofore made in this proceeding on March 3, 1917 (Decision No. 4146), which stipulation provides that said company, its successors and assigns, will never claim before the Railroad Commission of the state of California, or any other public authority, any value for the franchise conferred by the board of supervisors of Trinity County, adopted September 7, 1916 (said franchise being the franchise referred to in the original decision in the above entitled matter), in excess of \$357.75, the amount alleged by applicant to have been paid therefor by H. R. Gibbon, the original grantee under said ordinance, who thereafter assigned the same to applicant, and it appearing to this commission that said stipulation is in form satisfactory to this commission so far as may be necessary for the purposes of this proceeding,

It is hereby ordered that said stipulation be and the same is hereby approved and ordered filed.

Dated at San Francisco, California, this thirty-first day of March, 1917.

Decision No. 4221, grade crossing; not printed. See end of volume.

DECISION No. 4222.

STEVINSON WATER USERS' ASSOCIATION, JOHN D. CARLSON AND
J. E. MOUNT

vs.

JAMES J. STEVINSON, A CORPORATION, AND THE EAST SIDE CANAL
AND IRRIGATION COMPANY.

Case No. 855.

Decided March 31, 1917.

1. The submission of letterheads and circulars containing statements to the effect "we own the canals supplying our land with water" is not sufficient to support a finding that the Stevinson company is a public utility corporation, complaint as regards such company dismissed.
2. It is not unduly burdensome to compel a canal company to remove, by drag scrapers, collections of sand and weeds obstructing their canals. East Side company required to clean their main canal between the intake at San Joaquin River and Sand Slough within sixty days and to make 15-day reports to the commission detailing progress of such work.

L. L. Dennett, for Complainants.

James F. Peck, for The East Side Canal and Irrigation Company,
Defendant.

BY THE COMMISSION.

OPINION.

The complainants in this case, consisting of two individuals and an unincorporated association of landowners in the community known as Stevinson, Merced County, allege in their complaint that they are supplied with water for the irrigation of their lands from the irrigating canals and ditches of defendants.

The complaint further states that the lands now owned and occupied by complainants were originally owned by defendant, James J. Stevinson, a corporation, hereinafter designated and referred to as the Stevinson corporation, and that said defendant constructed, for the purpose of conducting and furnishing water to said land for irrigation purposes, the main canal and also distributing canals and ditches, and that said land was sold to complainants and their predecessors in interest upon the express representation that water would be furnished, supplied and delivered to such land for the irrigation thereof through such canals and ditches; that payment was made for such service through said defendants; that defendants thereafter, for a long period of time and until July 15, 1914, maintained said canals and ditches and furnished and delivered water through the same for the irrigation of said lands. That said lands are arid or semiarid in character and require irrigation, which can not be obtained from any other source except the canals and

ditches of defendants; that on or about July 15, 1914, defendants without cause or justification, ceased to furnish or to deliver water through said laterals or distributing ditches to the lands of complainants, that they have ever since failed or refused to maintain said canals or laterals, or to deliver water through the same, and that they have also failed to maintain the main canal in a proper and adequate manner.

Complainants further allege that the owners of the Stevinson corporation formed The East Side Canal and Irrigation Company, hereinafter designated and referred to as the East Side company, and owned and controlled the same, that the main canal and diverting works and the lateral or distributing ditches are all part of the same system, owned and controlled by the same people, and that said East Side company is merely an agency of the Stevinson corporation.

The complaint concludes with a prayer that defendants be compelled to maintain said laterals or distributing ditches from the main canal to the lands of the users of water and to run and deliver through the same to said lands water for the irrigation thereof, and for such further order as may be necessary for complainants' adequate relief.

The answer of the East Side Canal Company puts in issue most of the allegations of the complaint, while the Stevinson corporation failed to appear either by answer or at the hearings, presumably upon the theory that it is not a public utility.

Public hearings were held in Stevinson on October 4, 1916, and in Turlock on February 15, 1917, before Examiner Bancroft.

This is not the first time that complaints have been made against the treatment which the inhabitants of Stevinson have been receiving at the hands of the defendants.

Early in 1914, by Decision No. 1391 (Vol. 4, Opinions and Orders of the Railroad Commission of the State of California, p. 597), the commission reviewed the conditions of the East Side company and the grievances of its consumers at some length, as well as the status of the Stevinson corporation. In the opinion in that case, to which reference is hereby expressly made, and in which case the East Side company was referred to as the Canal company, Commissioners Edgerton and Gordon stated:

"The Stevinson corporation sold, under contract, approximately 8,407 acres of land, and under an agreement between it and the Canal company, defendant herein, the Stevinson company, agreed with the purchaser of the land that upon the carrying out of the terms of the contract by the purchaser, the Canal company would convey to him a water right, and from the time of entering into the contract the purchaser was to pay the Canal company \$1.00 per acre per annum in advance for the amount of water specified in the so-called water right.

"The testimony shows that the Stevinson corporation added to the price of the land sold under the contracts as aforesaid the sum of \$25.00 per acre for this so-called water right. * * *

"The Stevinson corporation at its own expense constructed the laterals leading from the main ditch of defendant and has always, and does now, maintain and operate these laterals at its own expense. As far as the evidence shows, no conveyance has ever been made of these laterals by the Stevinson corporation."

At the hearing of the present application considerable evidence was introduced to the effect that the managers of the Stevinson corporation had represented to the purchasers of land, and were still representing, that the land being sold and the irrigation system supplying the same with water were owned by the same people. Complainant's Exhibit No. 2 is a pamphlet issued by "The Stevinson Colony, Howard H. Hogan, general manager," which describes in glowing terms the alleged advantages of owning land in the Stevinson Colony. On the last page of the pamphlet in bold face type appears the statement, "We are the sole owners of both the land and the canal supplying the water." Complainant's Exhibit No. 4 consists of the letterhead of the Stevinson Colony, which, according to the testimony is being regularly used by defendants. This letterhead contains the printed statement that "We are the sole owners of the canal supplying our colony with water," while the printed matter on defendants' envelopes, introduced as complainants' Exhibit No. 5, contains the statement "Under irrigation from our own canal."

The evidence in this case, however, will not support a finding that James J. Stevinson, a corporation, is a public utility. Therefore, the complaint should be dismissed in so far as it involves said corporation.

The ninth paragraph of the complaint alleges that defendants have also failed to maintain the main canal in a proper and adequate manner. The evidence introduced under this head showed that The East Side Company's canal was badly clogged with weeds and tules, and also that from its intake at the San Joaquin River for a distance of three-quarters of a mile or more the canal is obstructed by a deposit of sand, varying in depth from a few inches to a maximum of from 3½ to 4 feet.

The East Side company introduced evidence to the effect that its canal was large enough to carry several times as much water as the company could procure, and that, accordingly, it could carry all the water obtainable, even though it might be badly filled with weeds and tules. The evidence showed unmistakably, however, that the deposit of sand above referred to materially reduced the amount of water which flowed into the ditch from the river at the time of the year when most needed, and there is no question in our minds but that if the canal be cleared of this sand, and kept clear, the water users of Stevinson Colony

would receive a more adequate supply. Under existing conditions, the evidence showed, there was often a shortage of water, especially during dry seasons.

There was a distinct conflict of evidence as to whether the canal would fill again immediately if cleaned out by mechanical means, the East Side company's witnesses contending that it was impracticable to clear the sand by mechanical means, and that if it were so cleared, it would fill up again its present height within ten days or two weeks. Complainants' witnesses offered contrary evidence and Milo H. Brinkley, one of the commission's engineers, who had made an examination of the canal, testified that in his opinion it was entirely feasible to clean out the canal by means of a drag scraper, and that if the canal were so cleaned out, it would not fill up in a single season, and, accordingly, the water supply available for the East Side company's consumers would be materially improved.

Considering all the evidence, we find that the East Side company's efforts to clean out the sand by running the flood waters through the canal two miles to Sand Slough are decidedly uncertain and inadequate and have not kept the canal clear in the past; and we are of the opinion that the East Side company's water users should not be required to depend upon such a questionable method of removing this obstruction, but that the East Side company should be required to remove the sand by means of a drag scraper or some other suitable mechanical process within sixty days from the date of this order. There is no means of determining with certainty whether or not sand will again fill up the canal as soon after being removed as to render its removal in the manner suggested impracticable, except by actually removing the sand and observing the results; and in view of the conflict of testimony and the fact that the East Side company's method of dealing with this problem has not been satisfactory or adequate, and as the cost of the removal of the sand, as above suggested, is by no means prohibitive, we feel that the following order will impose no undue burden upon the East Side company.

ORDER.

Public hearings having been held in the above-entitled proceeding and the case having been submitted and being now ready for decision,

It is hereby ordered that the complaint be dismissed in so far as it involves James J. Stevinson corporation.

It is hereby further ordered that The East Side Canal and Irrigation Company be and the same is hereby directed to remove, within sixty (60) days from the date of this order, all sand and other material obstructing the company's main canal between the intake at the San Joaquin River and the slough known as Sand Slough.

It is hereby further ordered that The East Side Canal and Irrigation Company shall make to this commission every fifteen (15) days until the fulfillment of this order, verified reports in detail of the progress of the work herein ordered to be performed.

Dated at San Francisco, California, this thirty-first day of March, 1917.

GRADE CROSSINGS.

Decision No.	Application No.	Applicant	Location	Action	Date
3910	1903	County of San Bernardino	Helen	Granted	Dec. 2, 1916
3911	2645	Southern Pacific Company	Rucker Station	Granted	Dec. 2, 1916
3912	2649	Southern Pacific Company	Fresno	Granted	Dec. 2, 1916
3915	2653	L. A. and S. F. Railroad Co.	Los Angeles Co.	Granted	Dec. 6, 1916
3924	2658	Chowchilla Pacific Railway Co.	Madera County	Granted	Dec. 12, 1916
3933	2659	Dept. of Engineering, State of Cal.	Dennan Station	Granted	Dec. 13, 1916
3936	2673	Southern Pacific Co.	Tracy	Granted	Dec. 18, 1916
3938	2676	Northwestern Pacific Railroad Co.	Point Reyes	Granted	Dec. 19, 1916
3939	2685	Southern Pacific Co.	San Jose	Granted	Dec. 23, 1916
3947	2686	Southern Pacific Co.	Tulare	Granted	Dec. 23, 1916
3953	2667	Visalia Elec. Railroad Co.	Tulare County	Granted	Dec. 26, 1916
3954	2683	Nevada-Cal. Oregon Railway Co.	Phumas County	Granted	Dec. 26, 1916
3955	2688	A. T. and S. F. Railway Co.	Vernon	Granted	Dec. 26, 1916
3956	2601	City of Redding	Redding	Dismissed	Dec. 28, 1916
3957	2692	A. T. and S. F. Railway Co.	San Francisco	Granted	Dec. 28, 1916
3958	2693	Dolbeer and Carson Lumber Co.	Humboldt County	Granted	Dec. 28, 1916
3977	2703	A. T. and S. F. Railway Co.	Bakersfield	Granted	Jan. 4, 1917
3985	2706	Southern Pacific Co.	Livingston	Granted	Jan. 8, 1917
3988	2672	County of San Bernardino	Ibis	Granted	Jan. 11, 1917
4000	2194	Imperial County	Imperial County	Granted	Jan. 11, 1917
4007	2691	Imperial County	Imperial County	Granted	Jan. 11, 1917
4008	2714	Southern Pacific Co.	Linedard	Granted	Jan. 11, 1917
4017	2689	Southern Pacific Co.	Calipatria	Granted	Jan. 15, 1917
4022	2718	A. T. and S. F. Railway Co.	East Highlands	Granted	Jan. 16, 1917
4032	2316	County of Kern	Kern County	Dismissed	Jan. 18, 1917
4050	2720	Pacific Electric Railway Co.	Los Angeles	Granted	Jan. 21, 1917
4051	1904	County of San Bernardino	Java	Granted	Jan. 24, 1917
4062	2728	A. T. and S. F. Ry. Co. and S. P. Co. (plans for interlocking tower).	Claremont	Dismissed	Jan. 24, 1917
4057	2700	County of Merced	Merced County	Granted	Jan. 25, 1917
4063	2717	Minkler Southern Railway Co.	Porterville	Granted	Jan. 29, 1917
4064	2745	A. T. and S. F. Railway Co.	Bakersfield	Granted	Feb. 5, 1917
4069	2735	Huntington Park	Huntington Park	Granted	Feb. 5, 1917
4100	2760	Pacific Electric Railway Co.	Fullerton	Granted	Feb. 5, 1917
4101	2762	Southern Pacific Co.	San Francisco	Granted	Feb. 15, 1917
4119	2732	Southern Pacific Co.	El Centro	Granted	Feb. 21, 1917
4120	2768	Southern Pacific Co.	Hollister	Granted	Feb. 21, 1917
4124	2767	Southern Pacific Co.	Madera	Granted	Feb. 21, 1917
4125	2679	County of Kern	Kern County	Granted	Feb. 26, 1917
4126	2680	County of Kern	Kern County	Granted	Feb. 26, 1917
4127	2774	A. T. and S. F. Railway Co.	Emeryville	Granted	Feb. 26, 1917
4151	2766	A. T. and S. F. Railway Co.	San Diego	Granted	Mar. 3, 1917
4172	2782	Southern Pacific Co.	Galt	Granted	Mar. 3, 1917
4153	2783	Southern Pacific Co.	San Francisco	Granted	Mar. 3, 1917
4155	1903	County of San Bernardino	Helen	Granted	Mar. 3, 1917
4159	2784	A. T. and S. F. Ry. Co. and S. P. Co. (plans for interlocking tower).	Fresno	Granted	Mar. 5, 1917
4161	2781	County of San Bernardino	Hicks	Granted	Mar. 7, 1917
4162	2788	Pacific Electric Railway Co.	Los Angeles	Granted	Mar. 7, 1917
4175	2533	Pacific Electric Railway Co.	Vineland	Granted	Mar. 9, 1917
4176	2792	County of Merced	Delhi	Granted	Mar. 12, 1917
4177	2793	Southern Pacific Co.	San Francisco	Granted	Mar. 12, 1917
4191	2804	Pacific Electric Railway Co.	Pasadena	Granted	Mar. 19, 1917
4192	2806	Southern Pacific Co.	Berkeley	Granted	Mar. 21, 1917
4198	2807	Southern Pacific Co.	San Jose	Granted	Mar. 22, 1917
4109	2810	Southern Pacific Co.	Gazelle	Granted	Mar. 22, 1917
4215	2818	Dept. of Engineering, State of Cal.	Goshen	Granted	Mar. 31, 1917
4216	2820	Southern Pacific Co.	Calwa	Granted	Mar. 31, 1917
4221	2821	Southern Pacific Co.	Orland	Granted	Mar. 31, 1917

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